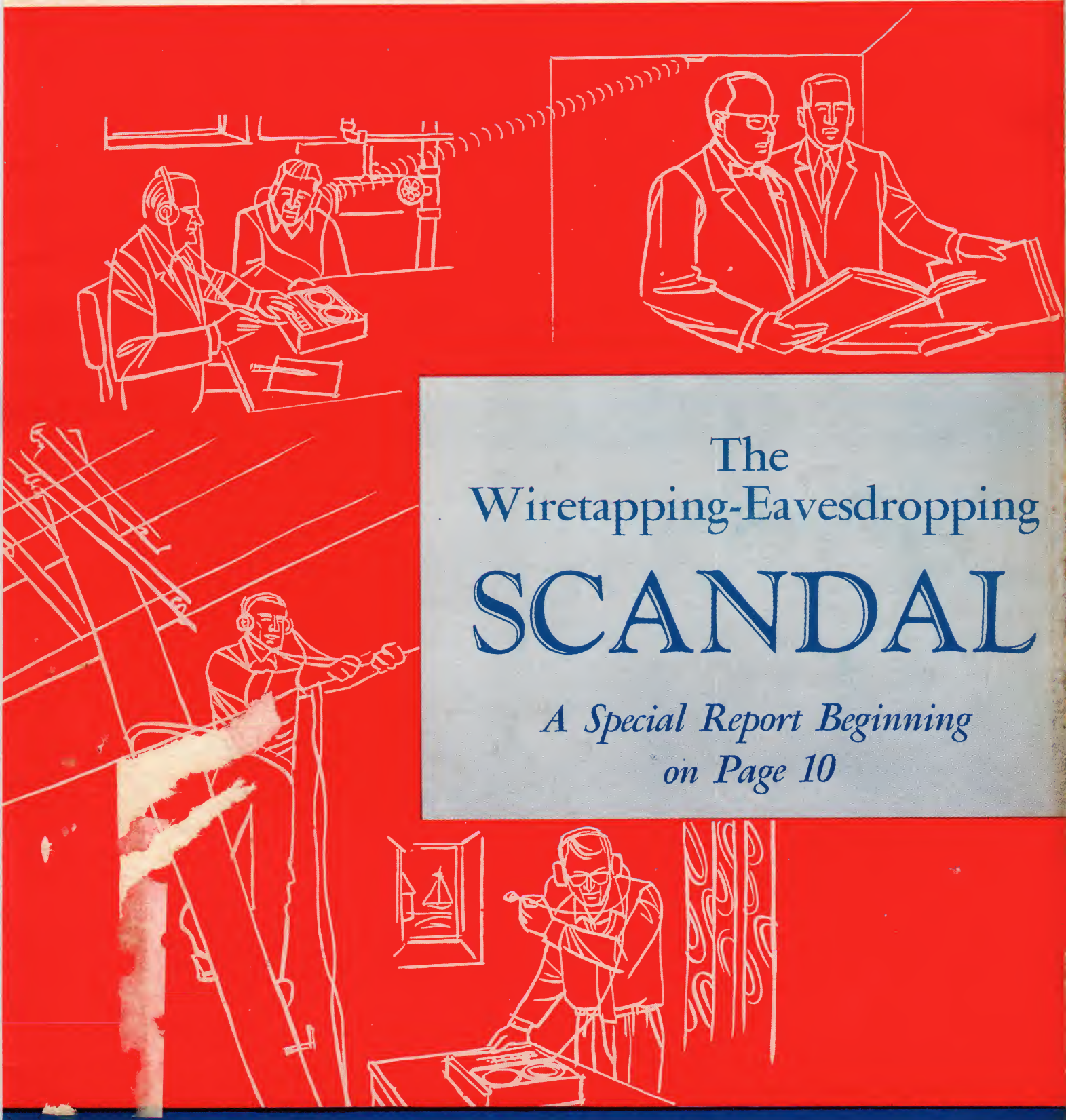
THE INTERNATIONAL Teamster
DEDICATED TO SERVICE

MARCH, 1967



# The Wiretapping-Eavesdropping SCANDAL

*A Special Report Beginning on Page 10*

## Hoffa Brings Truckers Together at Bargaining Table

see page 4

# RTW

## LABOR'S PLACE IN HISTORY

IT IS UNFORTUNATE that the face of our National Labor Policy, which is smilingly dedicated to industrial peace and the right of workers to organize and bargain collectively, remains pockmarked with Section 14(b) of the Taft-Hartley Act which permits so-called "right-to-work" legislation.

Events of recent weeks have shown once again the wasteland of this bit of federal statute which authorizes those states favoring the compulsory open shop to enact RTW laws.

State legislatures in Wyoming and New Mexico have just dealt with the subject. Wyoming's lawmakers defeated a move to repeal that state's RTW statute. The New Mexico assembly killed a proposal to add RTW to that state's code. In each case, the legislative futility of dealing with the question were aptly illustrated.

About 4 years ago, Wyoming passed its RTW law. In the months following, the state's economy suffered greatly as outlined by labor testimony in the fight to repeal the law.

Before RTW in Wyoming, the annual per capita income of the residents there was $18 over the national average—and by last year had slipped to $188 below the national average. In the same period, personal bankruptcies increased 30 per cent. Private employment declined 2.9 per cent while increasing 6.7 per cent in the rest of the nation.

As if that were not enough havoc as a result of RTW in Wyoming, home foreclosures in the state have quadrupled since the law went into effect and now are twice the U.S. rate. Furthermore, working people have been moving out of the state at the rate of 8.2 per cent in the last 5 years—the biggest outflow of any state in the union. And while construction has gone up 8 per cent in the country, Wyoming's rate has dropped 17 per cent.

Taking cognizance of this economic downturn, the Wyoming House of Representatives, Republican-controlled, passed by a 34 to 27 vote a bill to repeal RTW. But the repeal move died in the Wyoming Senate Labor Committee.

The RTW movement in New Mexico has been different but equally time-consuming, expensive, and generally wasteful. The RTW scheme was rejected by New Mexico voters in a 1948 referendum. Every 2 years since then, the "National Right to Work Committee" has poured money into the state in attempts to resurrect the issue.

The latest effort again went down to defeat as the Democratic-controlled House of Representatives voted 40 to 30 against a resolution that would have put the anti-union law on the ballot as an amendment to the New Mexico constitution.

Thus, in the same general geographic region—the Rocky Mountains—there is witnessed the one state wise enough to reject economic suicide, while the other state with somewhat the same regional interest refuses to face the reality of its losses and heads for even further depression.

Repeal of Section 14(b) by the Congress would figuratively save RTW states from themselves inasmuch as the record shows continuously that they suffer from this single digression from the National Labor Policy.

THE INTERNATIONAL
# Teamster
DEDICATED TO SERVICE

Official magazine of the International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, 25 Louisiana Ave., N. W., Washington 1, D. C.

Volume No. 64, No. 3 March, 1967



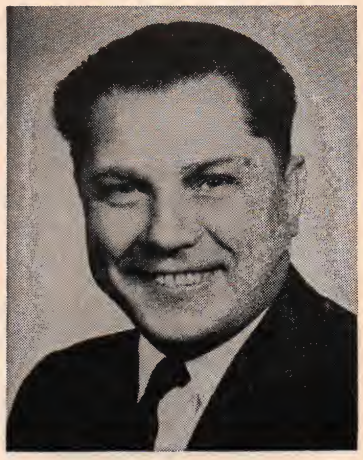
## A SPECIAL REPORT: On Page 10

**Senators Becoming Alarmed**
**At Assault on Privacy,**
**Buggers, Eavesdroppers**

***The International Teamster has an average monthly circulation of 1,506,608 and an estimated readership of 3,800,000 (based on average impartial surveys of periodicals). It is the largest labor publication in the world.***

**Editorial material should be addressed to:**
**Teamsters Union, Office of Public Relations and Publications, 25 Louisiana Ave. N. W., Washington, D. C. 20001.**

POSTMASTERS—ATTENTION: Change of address cards on Form 3579 should be sent to the International Brotherhood of Teamsters, Chauffeurs, Warehousemen & Helpers of America, Mailing List Department, 810 Rhode Island Avenue, N. E., Washington, D. C. 20018. Published monthly at 810 Rhode Island Avenue, N. E., Washington 18, D. C., by the International Brotherhood of Teamsters, Chauffeurs Warehousemen & Helpers of America, and second class postage paid at Washington, D. C. Printed in U.S.A. Subscription rates: Per annum, $2.50; Single Copies, 25 cents. (All orders payable in advance.)
Printed in national and informational editions.



*Message of the General President*

# The Wiretapping Scandal

In this issue of the *International Teamster* magazine we have devoted considerable space to one of the most serious problems facing free men today. This special report is taken from the *Congressional Record* and concerns the alarming invasion of personal privacy by wiretappers and eavesdroppers, both from government and from private sources. The problem has grown by such leaps and bounds that leading lawmakers recently engaged in a discussion on the floor of the Senate. That discussion is reprinted for your information beginning on page 10.

President Johnson called for an end to wiretapping in his State of the Union Message.

We in the International Brotherhood of Teamsters have been alarmed by this insidious encroachment upon the Constitutional rights of United States citizens for a long time. The subject of wiretapping and eavesdropping was a topic for a major address delivered at the Union's Convention last July by Senator Edward Long of Missouri.

Through our legislative department, we have worked to have this and other invasions of Constitutional rights and civil liberties exposed and brought to the attention of the American public.

One of the greatest champions against the invasion of personal privacy was our Legislative Counsel Sidney Zagri, who last month died in a tragic fire in Montgomery, Alabama.

Much credit for the growing concern over these invasions of privacy must be given to Sidney Zagri, as he labored long and hard to interest those people in this country who can do something about it.

I urge each and every one of you to take the time to read the special report on wiretapping and eavesdropping in this issue of the magazine even though it is long and will take some time to read. It concerns each and every one of you as American citizens who wish to remain free.

Not only has the government admitted wiretapping and bugging in more than a dozen instances and gone into court to purge itself of these invasions of Constitutional rights, but also the practice has become rampant by private sources.

Industry is spying on industry, management is spying on unions, private parties are bugging their neighbors, and machinery for participating in this dirty business is offered for sale in catalogs mailed throughout the country. With refinements in electronics, tools for this practice can be had cheap. Anyone can play.

I can think of no better tribute to our departed Bother Sidney Zagri than for each and every one of you to write a letter to your Senators and Congressmen urging them to join in the fight against invasion of privacy by government and individuals who have no regard for the basic freedoms which make this country great.

James R. Hoffa

## Discussing the Problems

# National Construction Division Holds Annual Conference

APPROXIMATELY 125 union officials from Teamster locals with construction jurisdiction attended the annual meeting of the Teamster Building Material and Construction Drivers National Division last month in Miami Beach, Florida.

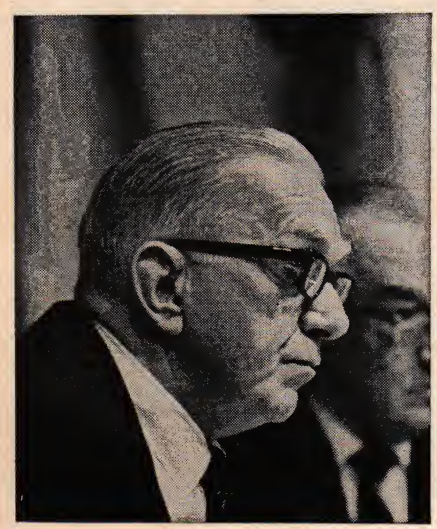
On hand to participate in the discussions led by Division Chairman Thomas Owens were International Union Vice Presidents Thomas E. Flynn, of Washington, D.C., and Harry Tevis, of Pittsburgh. Flynn also is director of the Eastern Conference of Teamsters.

The three day meeting concerned itself with a discussion of how to refine existing national and area wide agreements and how to expand this approach to bargaining for members not now covered under such contracts.

Also, delegates thoroughly discussed problems of jurisdictional disputes and means to bring about an enlightened approach to such disputes which will work best for the rank-and-file members involved.

There was high praise for the benefits derived from the existing National Construction Agreement and the National Pipeline Agreement. Reports from the various delegates praised these agreements, and particular praise came from Southern delegates who reported that under such contracts members have achieved hallmark increases

Thomas E. Flynn



Harry Tevis

Thomas Owens

and also that membership in construction jurisdiction has increased in the South.

Flynn, in his address to the delegates, stressed the need for increased organizing drives among non-union construction workers, especially in heavy and highway construction.

Tevis observed that he was most impressed by the interest delegates showed in solving problems for the benefit of the members represented. He declared that he had no fear for the future of the Construction Division because it is "blessed with a mixture of veterans of the trade union movement and youngsters who are comprehending the problems and quickly learning how to solve them."

### Supporting Hoffa

The delegates unanimously adopted a resolution of continued support for Teamster General President James R. Hoffa. The resolution praised Hoffa's interest and effectiveness in working on problems affecting construction and his support of the division itself.

Hoffa, involved in negotiations for a renewal of the National Master Freight Agreement in Washington, D.C., was unable to attend the sessions, as he has in past years, but took time out to wire his best wishes for the meeting and its objectives and pledged the International Union's continued support for the division.

## In Washington, D.C.

# Contract Negotiations Continue For National Freight Renewal

**At the bargaining table are Teamster General President James R. Hoffa, members of the union negotiating committee, and industry representatives as talks continue for renewal of the National Master Freight Agreement which expires March 31.**

NEGOTIATIONS for a renewal of the National Master Freight Agreement proceeded last month in Washington, D.C., under the chairmanship of Teamster General President James R. Hoffa.

Hoffa already has scored one major victory in negotiations by bringing various employer representatives to one bargaining table when at first the largest of the associations refused to participate in joint talks.

Trucking Employers, Inc., claiming to represent about 60 per cent of the employers, at first refused to bargain with other employers present.

### All Together

However, under Hoffa's guidance, negotiations finally began in Teamster Headquarters, in Washington, D.C., with all employers represented and the union bargaining committee presenting a united front as it had from the beginning.

The negotiators began the painstaking chore of reviewing section by section the proposal which the Union had presented to employers in January.

### March 31 Deadline

Progress at initial talks was minimal, with employers haggling on almost every item. As the *International Teamster* went to press, contract talks had not reached any of the money items sought by the union negotiators.

The present contract, covering approximately 450,000 Teamsters employed in local cartage and over-the-road trucking operations expires March 31, 1967.

**Willard L. Anderson, Local 833, participates in the discussion of problems of representing Teamster jurisdiction in the construction industry, during the recent meeting of the National Building Material and Construction Drivers Division of the IBT in Miami Beach, Florida.**

## New Orleans Meeting

# Brewery & Soft Drink Locals Move Toward Long-Held Goals

Teamster affiliates with members working in the nation's brewing and soft-drink industry took giant strides toward achieving major goals at a national conference of the local unions held recently in New Orleans, La.

**Frank Seban, Teamster Local 744 in Chicago, outlined the National Brewery Conference program to unite the nation's brewery, beer-distributor, and soft drink workers under the Teamster banner. At the head table are (left to right): Joseph Quillin, Teamster Local 843 in Newark, N.J.; Seban, and George Leonard, Teamster Local 203 in Los Angeles.**

Responding to a call from the Teamsters Union National Brewery and Soft Drink Division, delegates from 38 local unions across the country concentrated on 2 major items:

—An approach to 1967 contract negotiations, scheduled to get underway soon in all major brewing centers of the United States.

—The pressing need to bring under the Teamster banner all workers in the brewing, beer distribution, and soft-drink industries not presently represented by Teamsters Union affiliates.

In an industry divided for decades between the International Brotherhood of Teamsters and the United Brewery Workers AFL-CIO, the New Orleans meeting took a unanimous stand behind the slogan—"One union for all brewery and soft drink workers under the Teamster banner," and for the first time endorsed a full-scale program to accomplish this goal.

The reasons for embarking on this program in 1967 were outlined in a keynote talk prepared by Conference Secretary-Treasurer Ray Schoessling of Chicago but delivered in his absence by Frank Seban, his executive assistant. Schoessling said:

"With the industry moving by leaps and bounds to control of production and sales by a small number of giant national companies, it has become an economic necessity that one strong union represent all of the workers."

He added that Teamster experience in freight and warehousing has demonstrated the need to move toward national agreements with companies operating nationwide.

Pointing out that recent Teamster organizing victories in newly constructed breweries in Texas and Florida has laid the groundwork for an aggressive campaign, Schoessling said, "The time to do this job is now, and we intend to do it with the full support and backing of the general executive board of the International Union."

The delegates unanimously concurred in a program endorsed a week earlier by the general executive board to immediately launch a year-round organizing campaign among brewery workers.

**Delegates attending the National Conference of Teamster Brewery and Soft-Drink local unions rose for a unanimous vote of confidence in General President James R. Hoffa at the conclusion of the meeting.**

## 54th Birthday

**General President James R. Hoffa cut his 54th birthday cake at the International Union headquarters with the assistance of his granddaughter, Barbara Jo Crancer, last Feb. 14th.**

A full-time field organizer, Charles Klare, was assigned to the Conference and a program approved. Klare, associated with Teamster brewery locals in New York City for the past 18 years, will work directly under Schoessling.

### Mutual Assistance

In their second major action, the delegates moved closer to the goal of national negotiations by unanimously binding themselves to a program of mutual assistance in the forthcoming negotiations with national and local employers.

Conference Director George Leonard of Los Angeles, Calif., who chaired all the sessions of the meeting, announced that a "substantial majority of all Teamster brewery contracts now expire on a common date."

### Facing Consolidation

Setting the tone for the session of collective bargaining, John Hoh of New York City outlined the changes in the beverage industry in recent years. He suggested that the old historic patterns of collective bargaining may have to fall by the wayside now. He added:

"We must face realistically the business of negotiating in an industry in which 5 companies now produce more than half of all the beer sold in this country."

## Teamster-Negotiated

# Best Stock Clerk Contract in U.S. Won for Pan American Employees

Some 1,200 stock clerks employed by Pan American World Airways, Inc., recently ratified a new agreement negotiated by the Teamsters Union Airline Division—described as the "best stock clerk contract in the United States today."

The 32-month contract extends to June 16, 1969, and is laced with wage increases of 16 cents an hour retroactive to last Nov. 16, 17 cents effective Nov. 16, 1967, and 18 cents effective May 16, 1968. There is a wage reopener Nov. 16, 1968.

Henry Breen, director of the Airline Division, said the wage gains will bring stock clerks with 42 months on the job to a top scale of $3.70 an hour, May 16, 1968, while lead clerks will reach a top of $4 an hour on the same date.

In addition to the pay hikes, the company will pay an increasing amount of the employee's contribution to the pension plan—25 per cent beginning Nov. 15, 1967, and another 25 per cent beginning Jan. 15, 1969.

The agreement also provides for company-paid group hospital and insurance plans. Effective May 15, 1967, Pan-Am will contribute a matching 1 per cent of rate of compensation toward a supplemental variable annuity plan for members who contribute from 1 to 10 per cent of their rates of compensation.

Other gains included the addition of Good Friday to the holiday schedule, a system-wide seniority list, 70 days sick leave, double time and a half for holiday work, sub-contracting language, a general benefits clause, and a clerk on medical leave of absence will now have a 12-month grace period in which the company will continue to pick up its share of the premiums.

## • Mining Ballot

Most of the leadmen, drillers, and helpers employed by Roman N. Noseck Diamond Drilling Contractor of San Manuel and Superior, Ariz., voted for representation by the Teamsters Union in a recent National Labor Relations Board election.

Carleton F. Wallmark, secretary-treasurer of Teamster Local 310 in Tucson, Ariz., said 34 workers were eligible to ballot. The vote was 24 for the Teamsters and 8 for the Steelworkers.

Wallmark said the election was the result of a joint petition filed with the Steelworkers.

## • Alaska Ballot

A majority of the 7 warehousemen and drivers employed by Barrett & Lesh, Inc., doing business in Anchorage, Alaska, as Produce Wholesale Co., voted for representation by Teamster Local 959 in a recent National Labor Relations Board election, according to Jesse L. Carr, secretary-treasurer of the local union which is headquartered in Anchorage.

## • Brockton Vote

Firemen and engineers employed by Howard D. Johnson Co., at its frozen food and ice cream plant in Brockton, Mass., voted unanimously for representation by Teamster Local 653 of that city in a recent National Labor Relations Board election, according to Henry G. Gross, secretary-treasurer of the local union.

## • California Vote

Truck drivers and warehousemen employed by Regal Supply Co., an oil distributor in San Jose, Calif., voted unanimously for representation by Teamster Local 287 in a recent National Labor Relations Board election, according to Reggie Bravo, business agent for the local union.

## $35,677 Gift

Paul W. Priddy (second from left), president of Teamster Joint Council 94 in Kentucky, presents to Louis J. Solomon (left) of the City of Hope medical center in Duarte, Calif., a check for $35,677. The sum represented the net proceeds of a testimonial dinner given for Priddy. Taking part in the presentation were Judge Ralph H. Logan (second from right), dinner chairman, and Marion M. Winstead, secretary-treasurer of the joint council. Priddy received the City of Hope's "torch award" for his devotion to humane and trade union ideals.

## Court Upholds Teamsters in Overnite

**The United States Court of Appeals for the Fourth Circuit has upheld a decision of the NLRB requiring Overnite Transportation Co., to make "whole" for losses those employees of Rutherford Freight Lines affected when Overnite bought the company and attempted to dump a Rutherford collective bargaining agreement with Teamster Local 171 of Roanoke, Va., which represented the Rutherford workers. A more complete story will be published in the next issue of the INTERNATIONAL TEAMSTER.**

## In Michigan

# Sterling Township Employees Go Teamster, Get Fine Contract

A precedent-setting accomplishment for Michigan public employees was achieved recently in a contract between Teamster Local 214 headquartered in Detroit and Sterling Township at Utica, Mich.

Ken Silvers, general organizer, said the agreement—which extends to Jan. 3, 1970—provides that for the first time in the state of Michigan, public employees will have complete eye and dental care for the entire family.

He described the agreement as "without a doubt the best agreement for public employees in the State of Michigan." Included in the settlement is a "successor clause" which stipulates that the contract shall be binding in case the township is incorporated into a new city to be known as Sterling Heights, Mich., as anticipated this spring.

The contract calls for rate hikes of 58 cents an hour in wages, with some employees due to receive—as a result of schedule changes—increases of 98 cents an hour within the next 8 months. All pay hikes were made retroactive to last Jan. 3. The top pay scale is $3.58 an hour, to be achieved in 6-month steps.

Other provisions include the union shop, dues checkoff, no subcontracting, seniority, a grievance procedure, paid-for time for stewards, a picket line clause, a struck goods clause, jury duty pay and funeral leave pay. There is a 40-hour work week.

Vacation schedules are 3 weeks after 10 years on the job and 4 weeks after 15 years. All holiday work must be paid at 3 times the hourly rate.

A sick leave provision pays employees one-third of their unused sick days at the end of each year in cash. The contract also provides a fully paid family Blue Cross and Blue Shield plan and a $5,000 life insurance policy.

## • Freight Vote

A majority of the drivers, dockworkers, helpers, and mechanics employed by W. H. Sackett of Riverside, Calif., a freight company, voted for representation by Teamster Local 467 of San Bernardino, Calif., in a recent National Labor Relations Board election.

Claude Thompson, secretary-treasurer of the local union, said 9 were eligible to ballot. The vote was 5 to 3 for the Teamsters.

**Signing a pace-setting agreement for Sterling Township employees in Michigan were (left to right): Seated—John Morrison, township clerk; William Valusek, township supervisor; Ken Silvers, Teamster general organizer; William Brown, township trustee; Standing—Richard Brown, township treasurer; Bruce McDonald, township trustee; Joe Valenti, president of Teamster Local 214; Victor Smith and Harry Awdey, township trustees.**

## • Auto Salesmen

New and used car salesmen employed by Don Allen Midtown Chevrolet, Inc., of New York City voted almost unanimously for representation by Teamster Local 868 in a recent National Labor Relations Board election.

Donald J. Bruckner, secretary-treasurer of Local 868, said 27 salesmen were eligible to vote. The ballot count was 24 for the Teamsters and 1 for the West Side Employees Assn.

## • Tire Firm Vote

Warehousemen and drivers employed by B.F. Goodrich Tire Co., in New Orleans, La., voted for representation by Teamster Local 270 in a recent National Labor Relations Board election.

Charles D. Winters, president of the local union, said all employees eligible to vote did so. The ballot count was 7 to 3 for the Teamsters.

## • Jersey Election

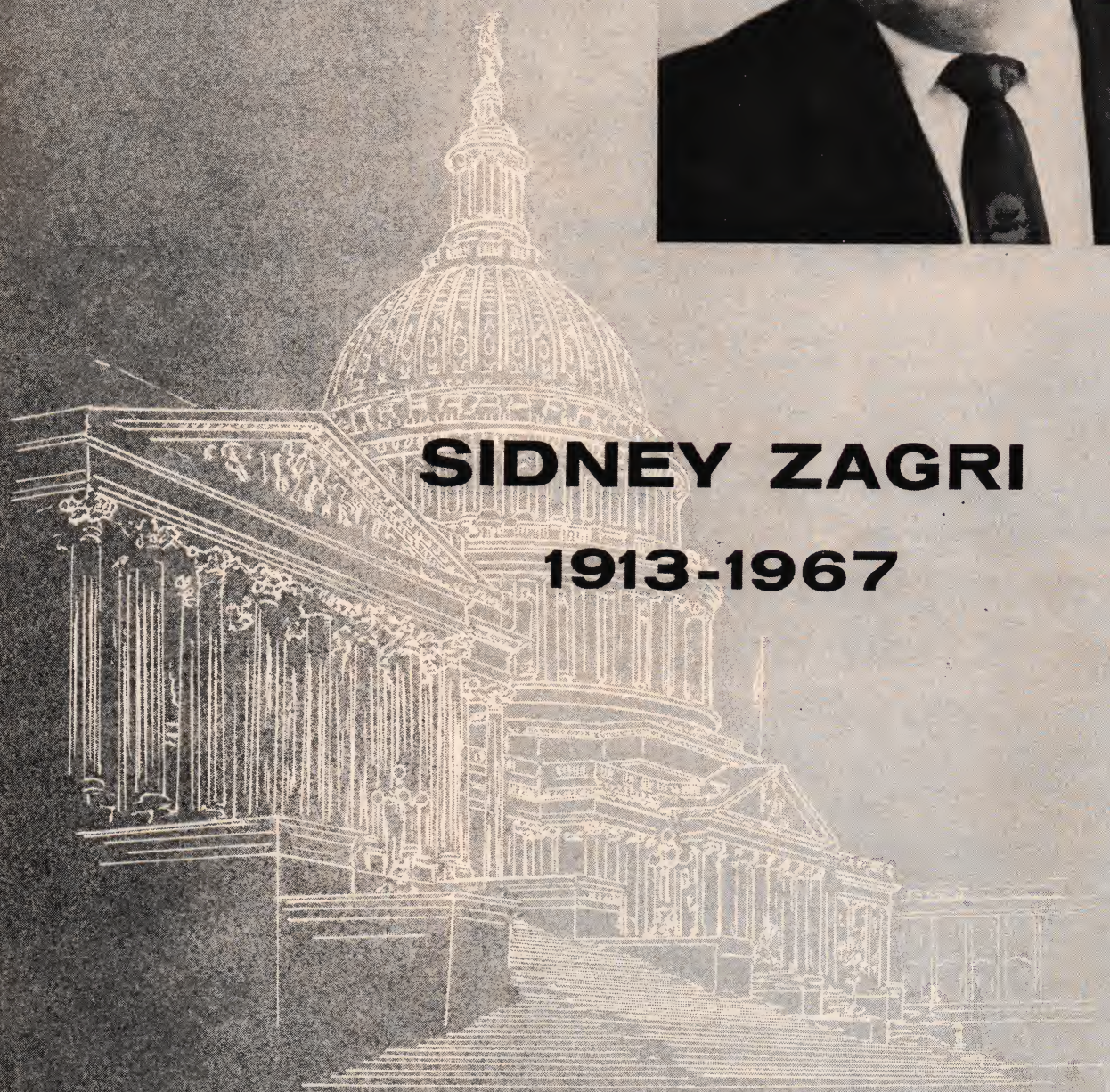
By a 3-to-1 margin, employees of Perma-Flex Roller Corp., of Carlstadt, N. J., voted for representation by Teamster Local 84 of Union City, N. J., in a recent National Labor Relations Board election.

Armand Castellitto, secretary-treasurer of the local union, said 18 workers were eligible to vote. The ballot tally was 12 to 4 for the IBT.

## Honors Due IBT Trustee At Testimonial

**Maurice R. Schurr, president of Teamster Local 929 in Philadelphia and a trustee of the International Brotherhood of Teamsters, will receive the 1967 Eleanor Roosevelt Humanities Award presented by the Philadelphia Labor Division of the State of Israel Bonds to a chosen Labor Man of the Year.**

**The presentation is scheduled during a testimonial dinner planned for Schurr in Philadelphia, April 23, 1967. Proceeds from the $25-a-ticket banquet will go to Deborah Hospital which provides special benefits for workers and members of their families stricken with operable heart disease, lung cancer, tuberculosis, or any other chest disease.**



# SIDNEY ZAGRI

## 1913-1967

# Teamster Legislative Counsel Sidney Zagri Victim of Tragic Restaurant Fire

SIDNEY ZAGRI, 53, long-time legislative counsel for the International Brotherhood of Teamsters, died last month when caught in a flash fire which swept a 10th floor restaurant in Montgomery, Alabama, and claimed the lives of 24 others.

News of the tragedy shocked his friends and associates throughout the nation and on Capitol Hill where he was a tireless worker for Teamster legislative goals. Zagri, who had been legislative counsel for the International Union since 1959, was in Montgomery on union business.

It was in 1959 that Zagri joined the staff of the International Union to establish a legislative and political action department for the Union.

He was director of DRIVE (Democratic, Republican, Independent Voter Education), the legislative and political arm of the Teamsters, an organization which he devised and set up for the union. He had labored long and hard to make it one of the most effective legislative and political programs in the nation.

Zagri was the originator of the DRIVE Motorcades which brought thousands of Teamster wives to Washington, D. C., where they studied legislative and political problems in seminars and then took their views and desires to the offices of Senators and Congressmen.

Vice President Hubert H. Humphrey called the DRIVE Motorcades "the most effective lobbying job being done in Washington."

President Lyndon B. Johnson, then vice president, was high in his praise of the Zagri program and the job the Motorcades did in making Teamster legislative views known among the nation's legislators.

Zagri expended an almost unbelieveable amount of energy for the International Union. Through his tireless efforts, rank-and-file membership in DRIVE had grown impressively in recent months from a humble beginning.

When the DRIVE program was first launched in 1959, he was joined by Teamster President and Mrs. James R. Hoffa at 'Jo Hoffa' luncheons across the country to spur DRIVE membership. A constant and tireless partner at DRIVE organizational meetings was his wife Katherine.

Recently, through the guidance of Zagri, DRIVE checkoff programs were scoring impressive gains in DRIVE membership as teams of DRIVE staff members took the campaign to the docks and warehouses throughout the country.

A true civil libertarian, Zagri was a feared enemy of wiretappers and privacy invaders. In his campaign against the invasion of privacy, he appeared on many television and radio programs to argue against the insidious entry into personal lives by government and private snoopers who disregard constitutional rights.

Most recently, he directed his efforts to another constitutional problem in a book which he called "Free Press, Fair Trial." In it, he documented the problem of a defendant in securing a fair trial when the case receives sensational and prejudical coverage in newspapers, on radio and television.

Zagri effectively argued in layman's terms that Teamster President James R. Hoffa, and other so-called 'celebrated' defendants, have not received fair trials because of prejudicial publicity. Zagri had insisted that any profits from the book revert to DRIVE.

Along this line, Zagri was instrumental in motivating legislation which was introduced in the Senate to prevent "trial by press release." He despised practices such as those of the Justice Department under Attorney General Robert Kennedy, whereby an indictment was returned and at the same time a press release issued by the Department outlining other legal activities which the defendant had previously encountered.

Also, he was instrumental in bringing about a resolution in the House Judiciary Committee calling for an investigation of the Justice Department by an appropriate subcommittee.

Born in the Bronx, N. Y., July 8, 1913, Zagri moved as a small boy with his family to California. He graduated from the University of California at Los Angeles in 1935, and from there went to Harvard Law School for two years. The depression of the Thirties brought financial difficulties and forced a two-year delay in Zagri earning his law degree.

After further study at the University of Wisconsin, Zagri became assistant to the chief trial examiner for the National Labor Relations Board. Later he became an impartial chairman in the Labor Dispute section of the National War Labor Board.

In 1945, Zagri resigned from government work to go into private law practice. Returning to California in 1949, he again took an active part in civic affairs and became chairman of the California Citizens Committee for Mental Health. He was also a member of Governor Earl Warren's Commission on Mental Health.

In 1955, Zagri returned to the field of labor in St. Louis with Teamster Local 688.

Teamster General President James R. Hoffa called Zagri irreplaceable. "He worked night and day for the Teamsters and for organized labor. He was a genuine civil libertarian and the cause of freedom has lost a champion in his death," Hoffa said.

Zagri was interred at King David Memorial Garden in Virginia, following services Friday, February 10th, in Washington, D. C.

He is survived by his wife, Katherine; a son, Sidney Ralph; two stepdaughters, Katherine Lubin of Chicago and Rebecca Carson of Washington; a sister, Ruth Gluck, and a brother Henry Zagri, both of California.

In lieu of flowers at the funeral services, Zagri's friends and associates contributed to the Sidney Zagri Memorial Scholarship Fund.

Those of his friends and associates who wish to contribute to the fund may do so by making out a check to the fund and mailing it to the International Union, 25 Louisiana Ave., N. W., Washington, D. C.

## Privacy in Jeopardy

# Senators Becoming Alarmed at Assault On Privacy by Buggers, Eavesdroppers

**EDITOR'S NOTE: The growing alarm of the American public over the invasions of personal privacy by wiretappers, eavesdroppers, and buggers—both from government and from private sources—was expressed in the United States Senate on Febuary 2, 1967. Appearing below are excerpts from a discussion on the subject by some of the Senate's most outstanding members. This report, from the Congressional Record, is presented to inform our members on a most serious attack of their constitutional rights.**

### THE RIGHTS OF PRIVACY AS A CONSTITUTIONAL GUARANTEE

Mr. MORSE. Mr. President, I address myself to the subject "The Rights of Privacy as a Constitutional Guarantee."

I rise today, as I did over 10 years ago, on the floor of the Senate, to address myself to the problem of wiretapping and the threats it poses to the privacy and security of the American home.

In 1954 Attorney General Brownell proposed a bill to legalize wiretapping and to make wiretapped evidence admissible in courts of law. Although the bill had passed the House of Representatives, the Senate rejected the wiretapping proposal, which I characterized as a "police-state method" and a surreptitious interception of a person's confidential communications to his family, friends, associates, lawyer, doctor or priest—an insidious kind of intrusion upon personal privacy."

I pointed out then, and I repeat again today:

When we speak about privacy and protecting the privacy of American citizens we are referring to a historic question, an issue which existed at the time the Constitution itself was adopted. In my judgment, unless there had been assurance that the privacy of American citizens would be protected from the arbitrary discretion of the Federal Government, the Constitution never would have come into being.

The adoption of the Bill of Rights amendments in 1789 and their subsequent ratification by the States established in law the principle that in a democracy the rights of the people are always superior to the expediencies of government officials.

We must not forget the Bill of Rights was adopted against the background of so-called Writs of Assistance authorizing revenue officers to enter suspected places and search for smuggled goods. James Otis, speaking in Boston in February 1761, denounced the character of the writs as an infringement of the Englishman's "right of House."

In the years 1966 and 1967 our distinguished and able colleague from Missouri [Mr. Long] has exposed, through the hearings of his subcommittee, the arbitrary intrusion of the revenue officer into the home of the taxpayer, not through Writs of Assistance, but through a more sophisticated type of intrusion, in the form of electronic monitoring.

In the 13 years since I delivered the speech above referred to in which I defended the constitutional rights of privacy and discussed the wiretapping problems in our country, we have seen "bugging" elevated to a fine art in police detection work. Many private agencies are also using bugging techniques to invade the rights of privacy of free Americans. Much of the impetus upon development of today's ingenious listening devices comes from Federal funds spent by agencies concerned with collecting intelligence information or with the design of miniature information recording equipment for the space program.

The invention of the transistor made it possible to make easily concealed transmitters for tape or wire recorders. Also, advances in sound engineering led to microphones the size of an olive to be inserted into a martini at a cocktail party or a fountain pen on a desk, and similar devices.

Since 1954 Congress has repeatedly rejected similar proposals to legalize wiretapping. As recently as 1962 the Congress failed to enact the Attorney General's program for legalized wiretapping.

Even though the Federal Communications Commission Act of 1934 outlaws the interception and divulgence of telephone communications without the consent of either party to the conversation, and even though the official policy of the various Federal agencies of Government has been to restrict the use of electronic monitoring excepting in cases where national security was involved, the Long subcommittee has revealed that over 60 Government agencies have at their disposal extensive electronic monitoring gear. The committee finds that these agencies do not hesitate to use such devices as a part of their normal investigative procedure.

On February 23, 1964, Senator Long, as chairman of the Subcommittee on Administrative Practice and Procedure, submitted a detailed questionnaire on invasions of privacy to all Government agencies with the exception of those agencies within the so-called security community. The questionnaire covered purchase and use by the civilian agencies of miniature recording devices, miniature transmitters and receivers, concealable microphones, two-way mirrors, infrared cameras, and other commonly used surveillance equipment.

These questionnaires were filled out by Government agencies with varying degrees of candor and with considerable reluctance. In each instance, the Long subcommittee discovered a considerable gap between the official policy and the practice.

On July 13, 1965, Senator Long stated:

As late as March of this year Secretary Dillon sat in my office and assured me wiretapping was absolutely banned by the Internal Revenue Service. He said that he and his colleagues in the national office knew of no case of wiretaps. I am certain he was telling the truth. Unfortunately, Department and Agency heads do not have the means to know of such activities.

Subsequent hearings revealed the IRS and the Treasury Department had been conducting a 7-week course for all agents in the art of electronic snooping which included picking of locks, installing hidden microphones, monitoring calls; that such electronic snooping took place in commercial establishments, offices, public telephones, private homes, automobiles, without the knowledge and consent of the individuals being tapped; that taxpayers calling into IRS had their calls monitored by the supervisor of the agent responding to the call; the taxpayers being interviewed in a Government conference room had their conversations overheard by permanent concealed bugs in the room; that it was the official policy of the inspection service of the Bureau of Internal Revenue to listen in on the telephone of its employees without their consent or knowledge.

If it were done in a Fascist country, such as Nazi Germany or in a Communist country such as Russia or China, we would call it a police-state technique. It is as much a police-state technique when practiced in the United States, and it is being practiced in the United States today.

I say to 195 million free Americans: "You have the duty, if you are going to protect the rights of your freedom of privacy to call your Government to an accounting." Yes, an accounting, if they continue to exercise what I consider shocking, unconstitutional indiscretions that are arbitrary and capricious in nature and against the rights of privacy guaranteed by the Constitution to a free people.

For we keep our freedom only to the extent and degree to which we insist upon procedures within the Government consonant with the enjoyment of freedom.

Mr. GRUENING. I join in and concur with the remarks of my distinguished colleague, the senior Senator from Oregon.

It does not surprise me that the Senator is taking this firm stand, as he always does when our democracy is imperiled—on this issue or any other issue.

I am not a lawyer, but I view the danger of wiretapping strictly from the standpoint of an ordinary citizen.

As a member of the general public, I would like to make sure whether the Senator means that my conversations could be tapped at any time in my office, on a public telephone, in my home, or in the home of a friend, or in an automobile.

Mr. MORSE. What makes the Senator think this is not so?

Mr. GRUENING. As I read the hearings of the Long committee, I became increasingly apprehensive that that might be the case.

Mr. MORSE. If the Senator and I were private citizens, without senatorial immunity, there would be some interesting material made available in regard to the Senator from Alaska and the Senator from Oregon that, in the minds of certain extremists in this country, would seem to give the interpretation that we are a couple of dangerous men.

Mr. GRUENING. I have no doubt that anybody who fights for democracy incurs the perils of opposition from those who would erode our heritage of freedom.

Is it not true that the Long hearings have demonstrated the chain reaction of bugging and wiretapping where the friends, associates, and innocent third parties who may be in the office, home, or automobile of the suspect become subsidiary or satellite subjects of investigation?

Mr. MORSE. That is what the report points out. Read the report.

Mr. GRUENING. I have. I note from the transcript of the Long committee hearings in San Francisco that the Pacific Telephone & Telegraph Co., had leased lines into a hospital and other establishments, under the pretext of "service-observations." The privileged telephone communications of doctor-patient, lawyer-client, and even husband-wife were overheard. I have examined the record of the hearings of the Long subcommittee and am shocked at the invasion of privacy of the ordinary taxpayer whose telephone conversations with agents are tuned in by supervisors on the pretext of observing the efficiency of agents in answering questions phoned in by the ordinary taxpayer.

It is a shocking situation. I am glad that the Senator has taken up the cudgels. I am with him. I think we should pursue the matter until we put an end to this nefarious practice.

Mr. MORSE. I appreciate the remarks of the Senator. It is not the only time that the Senator from Alaska and I have stood together to defend the rights of the people.

Mr. GRUENING. I think these issues are interrelated. If this practice is started in one field, we will soon have similar abuses in every field.

Mr. MORSE. The Senator is correct.

Mr. GRUENING. I am happy to note that the use of permanent bugging will be eliminated. However, we are informed that temporary bugging will be used on a case-to-case basis.

What is the difference between temporary and permanent bugging? If one is being bugged, he is being bugged. I see no great gain here.

Mr. MORSE. There is no difference as far as the violation of constitutional rights is concerned.

Mr. GRUENING. The hearings also disclose that it has been the custom of the Internal Revenue Service to purchase used trucks from the Bell Telephone Co., to repaint these trucks, to equip and disguise their agents as Bell Telephone employees, and then head them out into the highways and byways to climb poles, to tap lines, to listen to the private conversations of citizens, to record these conversations or simply to record which telephone numbers certain citizens call when they use their telephone.

Mr. MORSE. That is what the committee brings out.

Mr. GRUENING. When one sees a Bell Telephone Co. truck parked at a telephone pole near his home and a couple of men working on the telephone pole, does he have the right to feel insecure and to believe that they are trying to tap the wires in his house?

Mr. MORSE. I am a fellow who has great faith. I assume there must be a broken wire somewhere—I hope from natural causes—not from human splitting.

Mr. GRUENING. There was an interesting colloquy that took place between Senator Long and Owen Burke Yung, Sr., a senior coordinator of the Intelligence Division of the Internal Revenue Service.

He graduated from the Treasury school and this is hard to believe; many of the readers of the RECORD will not believe this—he had a course in lockpicking.

He was graduated as a lock picker. I cite these interesting excerpts from this committee transcript:

Senator Long. Is there a special course in that school on teaching the use of burglar tools?

Mr. Yung. There is, or was up until this year, a course in lockpicking.

Senator Long. Lockpicking?

Mr. Yung. Yes sir.

Senator Long. How do you—what do you use this—what would you use the art of lockpicking for?

Mr. Yung. For surreptitious entry.

Senator Long. Sir?

Mr. Yung. For surreptitious entry.

Senator Long. That is a good-size word for a country Senator. Is that just ordinary breaking and entering?

Mr. Yung. Well, they could be used legitimately. For instance, we say we might want to get into a basement room where the telephone box is located.

Senator Long. Well, that would still be breaking and entering, wouldn't it?

Mr. Yung. Technically, I guess so, sir.

Senator Long. Violation of the law?

Mr. Yung. I wouldn't know, sir. I am not a lawyer.

So our Government officials had gotten to the point where they were condoning and encouraging and teaching breaking and entering, and that is apparently what they are doing. I consider it disgraceful. We should see that this is corrected. We should put an end to all wiretapping. There is no excuse for it whatever in a supposedly free country. Those methods belong in a police state.

The benefits that might be derived from any information secured would be offset more than 100 times by the abuse of the rights of the people.

Mr. MORSE. There is no doubt of that.

We should not blithely forget our history and nor should we forget one of the principal foundations on which our Republic is based—that our forefathers protested—and rightly so—the snoopers of the British Crown.

As I have already pointed out in my speech, one of the great causes of the revolution was the insistence on the part of our colonial forefathers that their rights be protected.

Mr. COTTON. Mr. President, I thank the Senator. I commend him for direcing the attention of the Senate so eloquently and forcefully, as he always does, to what I think many of us consider to be the very extremely serious and far-reaching problem of the right of privacy.

I most heartily praise the Senator for the splendid speech he is making.

I am glad the distinguished Senator from Missouri [Mr. Long] has held the hearings. If the Senator from Oregon is going to mention this later, I shall not anticipate him, but I join in commending the distinguished Senator from Missouri for the splendid job he has done as chairman of the committee.

This is not in any sense criticism, but I was a little puzzled and disturbed in reading, I think over a year ago, a release from the Long committee—I do not know whether it was from the chairman, the Senator from Missouri, or not—in which it was indicated that although questionnaires and queries had been directed to many agencies, departments, and bureaus of the Government, no such questionnaires or queries had been directed at least at that time to what I believe was referred to as the security community, consisting of the Department of Defense, the Department of State, the FBI at least in the Department of Justice, and the CIA.

Some years ago, I served in the Internal Security Subcommittee of the Committee on the Judiciary, during the well-known Otepka case investigations. As I recall, representatives of the Department of Defense and the Department of Justice appeared before us in executive session. To be sure, it was in executive session, but later, by vote of the committee, the evidence was revealed to the public, with one or two small exceptions in which internal security seemed to be involved.

If we are to face up to this matter of bugging and wiretapping, this matter of invasions of the right of privacy, and face up to it in man fashion, it seems to me—even though it might be wise to have certain proceedings in executive session—that no department in this Government and no agency in this Government and no individual in this Government should be exempted. I do not say this in critcism of the committee of the Senator from Missouri [Mr. Long], but simply to suggest that this facet of the problem warrants very careful consideration.

Mr. MORSE. I shall cover that matter and another facet of it later in my speech, if the Senator will permit me to complete my speech, and at that time we can engage in colloquy.

I thank the Senator from New Hampshire for the way he has made it possible for me to stand shoulder to shoulder with him during our years of mutual service in the Senate, as we have approached the problems of protecting these individual rights guaranteed by the Constitution. This is not the first time that the Senator from New Hampshire and the senior Senator from Oregon have been on the same side—and I think the right side—of this great constitutional issue. I appreciated the Senator's cooperation in the past and thank him for his support at present.

Mr. BARTLETT. Is there a special law that permits Internal Revenue agents to break into homes in order to connect devices to telephone wires?

Mr. MORSE. In the opinion of the senior Senator from Oregon, it is outlawry, not legality.

Mr. BARTLETT. Is there any law that the Senator knows of which makes such a practice legally permissible?

Mr. MORSE. I do not believe that it can possibly be justified legally.

Mr. BARTLETT. I too, wish to say that I believe the Senator from Oregon in discussing this subject, is doing what is not only wise and advisable, but also essential, if the freedoms that the American people have known for so long are to be protected.

I wonder whether the Senator from Oregon, who obviously is very knowledgeable on this subject, can tell me when this strange, un-American business of tapping telephone wires commenced on the part of the Federal Government.

Mr. MORSE. I believe that it has existed surreptitiously for quite a number of years, but not to the degree to which it has now developed. I cannot pinpoint the date.

The Senator's question causes to flash through my mind a somewhat humorous incident, and at the same time a very serious one. Some years ago, while in my office, I received a telephone call from a newspaper reporter, who said that he wished to see me.

I said, "Come over."

He said, "Oh, no, I don't want to see you in your office."

I said, "What do you mean?"

He said, "I'll tell you when I see you."

So I made an appointment to meet him for coffee in the Senate Restaurant, and I took my administrative assistant with me.

When the reporter arrived, I said, "Why didn't you want to come to my office?"

He said, "Because it's bugged.

I said, "That's a lot of nonsense."

He said, "It isn't. I want you to know that I was advised by a member of the Secret Service to get in touch with you and warn you that your office is bugged."

I said, "I don't believe it."

"Well," he said, "did you recently make the following statement in your office?"

Well, I had. It was, of course, a highly personal and privileged matter, and I made the statement to only one person, my administrative assistant, who was sitting on the other side of the desk; and when I talk to him, I talk to myself. I can assure the Senator that my administrative assistant, Mr. William Berg, would never divulge any privileged discussion that he had had with me.

This quotation was so word-perfect—it involved comments that I had made about a high official of the Government—that I could not reach any conclusion but that the Secret Service report was accurate. We had this discussion with the reporter for quite some time.

He said, "This Secret Serviceman also suggested that I ask you if you have had a new chair come into your home recently."

I said, "I don't recall. I'll call Mrs. Morse and see."

So I went to the telephone and called Mrs. Morse; and she said, "You got your hot seat chair from New York from 'The Hot Seat' program."

In those days, there was a program called The Hot Seat; and if one was a guest on the program, he sat in a new chair, and the chair was sent to him as a sort of remembrance of the experience.

The reporter suggested, "Did you have it thoroughly inspected?"

"Well," I said, "If you're trying to imply that that might have a bug in it, it's down in the children's recreation room. There would probably be some very interesting conversations recorded on any bugs that might be attached to the springs of that chair."

Before we finished the conversation, the newspaper reporter said, "Do you mind if you take me over to your office and we do a little searching for ourselves?"

I should have said "No," because, in my judgment, while searching there we got into almost a silly posture.

But before it was over, I said, "I just wish you could have a photograph of this. This would be the picture of the year, as far as silly performance is concerned."

We found no bug in the office.

Then he said, "What about the fireplace?"

I got down and put my hand up in the opening of the fireplace, and began laughing.

I said, "How silly can we be?"

I immediately rose and said, "I'm all through with this. We couldn't find a bug if it were in here.

I called the FBI and told them of the report that I had received, and they sent over one of their special teams for searching out monitoring devices.

The interesting thing was that it was necessary to turn the office over to them and leave them alone in the office. You cannot stay in the office while they search it. They reported to me the next day that they found no bug, but they said that that did not mean that one was not there. That incident was some years ago. The practice has been greatly refined since then.

These devices have reached the point were they can be hidden in an office without a wire connection. There are little devices no larger than a wristwatch; that can sit in an automobile a mile away from the office and by means of the electronic devices that have been developed can record everything said in the office vocally. Even a whisper can be picked up by that type device. This is the most unbelievable to me.

If Senators will read the Long report, it will be discovered that they have so perfected the practice that, as I said in the early part of my speech today, there can be a device as small as an olive, which looks like an olive, in a cocktail glass, and it can record the conversation taking place.

I have made the preceding comments because I felt that there was a bit of human interest in it. Knowing the current state of the art, who knows what bugging is taking place anywhere? One thing I do know: It cannot be justified under the Constitution, and that is the issue I am raising here this afternoon.

Mr. BARTLETT. I did not know whether to be encouraged or dismayed by the comment that a conversation between by wife and me may have been intercepted.

Mr. LONG of Missouri. The size of these gadgets has been refined since the last information of the Senator. These devices are now the size of an aspirin tablet.

The Senator spoke about Senators' offices being bugged. Over a year ago we had specialists working with my staff, and we checked the offices and corridors in the office building. We found that the offices of two Senators were apparently bugged, but we were not able to locate the devices. The next day we looked for them, and they had been removed. We were advised that the offices of these two Senators were bugged in the Senate Office Building over a year ago.

Mr. BARTLETT. Mr. President, I wish to say, in all seriousness, that I believe that the work that the Senator from Missouri [Mr. Long] has done and is doing in this area, and the work which the Senator from Oregon [Mr. Morse] is now doing in calling the attention of the American public to what is going on, is in the best interest of the American people.

We all know that, increasingly, files are labeled confidential or secret, or both, within departments that have nothing whatsoever to do with national security. If such a department can violate the law and engage in wiretapping, there is no reason why, eventually, every minor agency cannot do it. If the practice is illegal for one, it should be illegal for all.

The sooner we cause these police-state methods to be discarded—methods which we deplore in other nations—the sooner we will return to the kind of America that this country was when we were younger, and the kind of America that our forefathers knew.

Mr. MORSE. The Senator is correct. That is my thesis.

Mr. GRUENING. In view of the fact that bugging devices are getting smaller and smaller—they were the size of an olive a few moments ago, and now the Senator from Missouri [Mr. Long] has informed us that their size has been reduced to that of an aspirin tablet—I wonder if it would not be somewhat like the verse:

Big bugs have little bugs upon their backs to bite 'em,
And little bugs have lesser bugs, and so ad infinitum.

Mr. HATFIELD. Mr. President, I am pleased that the senior Senator from Oregon [Mr. Morse] has introduced this important subject today on the floor of the Senate.

While I am not a constitutional lawyer, I do appreciate the reference that the Senator made to the Constitution and the Bill of Rights. I wish to ask the Senator if he does not believe this issue really comes down to a conflict between what we might call two goals, the goal of efficiency in law enforcement and the goal we would call the personal liberty of our people; and so, when these two goals are in conflict, does not the Senator believe that the goal of personal liberty should prevail over the goal of law enforcement efficiency?

Mr. MORSE. My answer is yes. As one who was professionally involved in many investigations in connection with the administration of criminal justice in this country before coming to the Senate, I never found that the protection of the public in the field of law enforcement ever justified the violation of constitutional guarantees.

Mr. HATFIELD. Many times we hear laymen speak with regard to this subject, and often their view has been expressed that if we hold the goal of personal liberty paramount, criminals would once again be turned loose to prey on people. What is the view of the Senator with respect to self-denial on the part of our Government in making personal liberty paramount over law enforcement efficiency, even to the extent of the release of guilty men?

Mr. MORSE. I have two responses. If we give support to the police departments, we can have adequate law enforcement. I have always voted to give that kind of support by providing the manpower they need, by way of training courses they should have, by way of equipment to which they are entitled, and also by giving them the most important weapon in law enforcement; namely, our trust and confidence in them, so long as they, themselves, remain within the framework of our legal guarantees. We do not need to resort to illegal techniques to protect the public interest.

The second point that I shall make concerns the matter of the presumption of innocence and the requirement on the part of the government to establish probable guilt. This is pretty vital to each of us.

It is easy to rationalize ourselves into supporting a violation of constitutional rights if we look at the situation from the standpoint that X is guilty of something.

But one of the great strengths of our Republic is the preservation of the presumption of innocence.

Senators know of my work in the Senate as chairman of the subcommittee of the Committee on the District of Columbia having to do with law enforcement in the District of Columbia vis-a-vis the police. I have never found much consideration of the presumption of innocence on the part of those who would have us take away from the people of the District of Columbia the constitutional guarantees to which I have addressed myself so many times.

Mr. TALMADGE. Mr. President, I desire to commend the distinguished Senator from Oregon on the stand he has taken on wiretapping and bugging, I personally think that wiretapping and bugging should be authorized only when the national security is involved.

Is it correct that in February 1961 the Justice Department authorized investigations to be made by the use of electronic equipment by agents in the drive on organized crime?

Mr. MORSE. That is my understanding. That was brought out in the Long report.

Mr. TALMADGE. Would that not presuppose a double standard of law enforcement; one applied to ordinary citizens, who would be protected in their constitutional right to privacy, and the other to a group of citizens who may or may not be criminals or otherwise, and who would be denied the same constitutional right?

Mr. MORSE. I think it is based upon that premise. It is a fallacious premise. In my judgment, we cannot safely draw those lines of distinction. Constitutional rights have to be recognized as uniform in character for all our citizens. We cannot give only a degree of it to certain alleged criminals who we may presume to be guilty of wrongdoing.

Mr. TALMADGE. In other words, even criminals have constitutional rights.

Mr. MORSE. It is basic Anglo-Saxon justice that those accused of crime are entitled to the same procedural protections as anyone else. How do we know in advance that X is really guilty? He may be covering up for someone. He may, in fact, be innocent. He may be mentally unfit. He may be emotionally upset. He may be the victim of a hysterical disorder at the time.

The Senator and I do not always agree on every legal point; but then, lawyers never do. I have always had great respect for the Senator's judgment. I am so glad he is raising these questions today. I do not raise them in my manuscript, and, therefore, the Senator is contributing to it. I want to make the point again that I do not believe we can have a system of justice where we boast about, "Equality before the law," if, in fact, we have inequality in the administration of legal procedures.

Mr. TALMADGE. I share that view. Would not the Senator agree that lawless law enforcement, applied to any segment of society, injures all segments of society?

Mr. MORSE. I agree entirely; it would be promoting lawlessness. More and more we are seeing evidence of a person on trial who seeks to justify the course of action he followed because he knows a law enforcement official did something similar to what he has been indicted for. That does not justify such a course of action, of course, but the examples of lawlessness we see within the Government, I think, serve to be, in effect, teachers for the lawlessness.

Mr. TALMADGE. I have noted a recent case involving three men convicted of a narcotics violation. Wiretapping was involved, and the court of appeals remanded the case for a new trial. In doing so, Judge Desmond wrote:

> The constitutional philosophy rests on the assumption that if public authority wrongfully invades the rights of a guilty man, the protection of the innocent man against wrongful interference is also imperiled; and we have never been willing to permit ultimate judgments of this kind to be made by prosecutors or by the police.

I further note that Judge Desmond agrees with our distinguished colleague that wiretapping is tantamount to a general warrant or writs of assistance complained about by James Otis in 1761.

Judge Desmond stated:

> Another unanswerable constitutional objection to wiretapping is the longstanding doctrine that no search is valid except for the seizure of specific property, not evidence. Wire tapping, by its very nature can never be anything but a search for evidence.

I wish to commend the distinguished Senator from Oregon for what he has said, and to express my deep appreciation for his personal references.

I also desire to extend to the distinguished Senator from Missouri [Mr. Long] my compliments for his great contribution to bringing to public light the extent of electronic snooping by Federal agents into the lives of ordinary American citizens. It is only through public exposures of this kind of operation that we will begin to close the gap between policy against wiretapping and the practice which condones it.

Mr. PROXMIRE. Mr. President, I commend the distinguished Senator from Oregon, who is unsurpassed in this body as a constitutional lawyer. He has demonstrated that ability repeatedly. He is also unsurpassed as a champion of civil liberties.

I want to ask the Senator from Oregon one or two questions. First, I wish to read one sentence from the Constitution, from the Bill of Rights, amendment IV:

> The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

I ask the Senator from Oregon: In this electronic age, when it is clear that by bugging, by placing within a person's home an electronic device which will report this conversations, or within a person's office—as the Senator from Oregon has described—is it not clear that this is an obvious, patent, prima facie violation of the Bill of Rights, particularly amendment IV, according to any kind of reasonable construction?

Mr. MORSE. That is my contention.

Before I discuss the subject further, let me make this personal remark to the Senator from Wisconsin. He is very kind to give me credit for the qualifications he attributes to me, but I think he overlooks the fact that many times, in serving together in the Senate, he has been my leader, and I have been one of the privates in his front ranks as he has led a fight on the floor of the Senate for civil liberties. I want him to know, again, that I appreciate his support of me in what I consider to be another aspect of the same overall problem.

In regard to amendment IV of the Constitution, which the Senator has just read to the Senate, there are lawyers who seek to draw distinctions when it comes to the application of that section

of the Constitution to specific fact situations arising in some cases.

They would seek to depreciate or dwarf what I consider to be the constitutional meaning of illegal searches and seizures. But as one who did his best to teach the constitutional law doctrine for many years on the basis of the lessons that were taught to me by a great constitutional law teacher, I always taught the Constitution as being a dynamic instrument; not a dead letter or a dead hand, but as a living, legal instrument capable of adjusting itself to the changing conditions of the country. That is the doctrine I would apply in this case.

Of course, when the illegal search-and-seizure protection was written into the Constitution, our Founding Fathers knew nothing about electronic devices that would be developed in the 20th century and which could constitute an invasion through the portals of that castle—a man's home—just as much as an invasion by a human body after it knocks down the door and walks in, or gains any other kind of illegal entry.

Thus, the thesis of my argument on this point is that the use of electronic devices in such instances does constitute an unconstitutional invasion of privacy, the concept of which the Constitutional Fathers sought to protect us from.

We must take this approach to constitutionalism in the country. That has been, by and large, the approach which the courts have taken, so this is not my doctrine; it has been the doctrine of the great constitutional law decisions for a long time in the constitutional law history of the Republic.

Mr. PROXMIRE. I want to ask the Senator from Oregon a further question. In addition to the fear referred to by the Senator from Alaska [Mr. Bartlett], that every agency will follow the policies that a few agencies have followed, is it not even more dangerous that local police throughout the country, because they work with Federal agencies often, are adopting this policy of violating the constitutional liberties of our people because the Federal Government, with its prestige, is leading them into it? Unless we stop this, unless we take the President's words as delivered in his state of the Union message, is it not true that there will be a police state in the very worst sense of the term throughout the Nation, in every town, village, and city, and not just on the part of local police authorities?

Mr. MORSE. May I say, in answer to the question of the Senator from Wisconsin, that these invasions of individuals' privacy are rampant in the country in many, many police forces. It is so serious that many bar associations have appointed special committees to look into the extent and degree to which they may exist in their localities. The place to set the example, in my judgment, is at the Federal level. That is why I am directing my attention to what I consider to be an invasion of privacy by the Federal Government.

Mr. PROXMIRE. To follow up the question which the junior Senator from Oregon asked the senior Senator from Oregon, about the extent to which this prohibition might interfere with law enforcement, I believe the worst thing that can happen to a local police force or, for that matter, any police force is to have it lose public confidence and public support. If the people of this country begin to develop a suspicion and fear and hatred of the police because of this kind of electronic policy to any significant extent, is not that loss going to be far greater to effective law enforcement than any kind of loss—which has never been documented—as a result of prohibiting the use of electronic devices, snooping, telephone tapping and violations of that kind?

Mr. MORSE. The Senator is completely right in that observation. That has been the approach I have made in my work on the District of Columbia Committee. I want to strengthen the police department here in Washington so that there will be more confidence in it. They are entitled to the confidence of the people of this city because, by and large, we have a good police department. Every police department has to be under constant surveillance though. That is the history of law enforcement. We have the officers to keep it under surveillance. I want to see that we deny the extension of electronic monitoring systems not only to the Federal agencies but to police agencies.

Mr. PROXMIRE. One thing we know is that science has made tremendous progress in development of devices. If they are ingenious now, think what they will be in a few years. Unless we step in now, based on the excellent revelations brought out by the Senator from Missouri, we are going to be in trouble in a few years.

Mr. LONG of Missouri. The Senator from Wisconsin mentioned local police. Right here, almost in the shadow of the Capitol, we have sworn testimony that the police of Fairfax County not only purchased but used bugging devices.

There has also been testimony on the so-called organized crime drive and how people lumped in the OCD category were treated. Does the Senator know of the information brought out in my hearings of how they treat an OCD member? A Federal agent out in the field asks for an OCD number from the Justice Department and, almost without exception, they give him the OCD number.

Testimony was given in my committee, under oath, that after the individual was given a number, he received entirely different treatment from that which he had received until he was given that number. He was given a massive investigation, with no holds barred—anything to gain evidence on him. This is known as a saturation investigation.

Mr. MORSE. That is exactly what happens. Another evil developing in connection with wiretapping and bugging philosophy of our law enforcement police officers in this country is the development of secret files and records that American citizens cannot get their hands on. But the files exist nonetheless, and the interesting thing is that so often the contents are made known to others who seek to have some relationship with the citizen in the future. He discovers that he loses jobs; he finds that he is subject to various types of pressures and wrongs, and he does not know where it is coming from, because he is not given the protection of another precious right that every man is entitled to—the right to be advised as to who is testifying against him and submitting charges against him.

I shall not get off on it today, but the Senator has heard me say in the past that that is why I am a critic of the investigative procedures of some of the committees of Congress. That is why I am urging a common procedure binding on all committees; namely, that when any committee ever conducts an investigation raising the issue of guilt or innocence in regard to anyone who is taken within the jurisdiction of that committee, the individual should be entitled to the same procedural protections and rights that the Senator and I are entitled to if we are hailed before a court of record and charged with something involving our guilt or innocence of an alleged wrongdoing.

That is why Senators have heard me on the floor of the Senate, for over 20 years now, protesting what I consider to be investigations by men rather than by laws. We ought to reform the procedures of our committee investigations, so that those basic rights guaranteed by Anglo-Saxon justice are given to any person coming before a congressional committee.

So that is why—and it is apropos to the general subject matter—I have discussed in the past all those rights. They are very simple. They are rights of all individuals.

Some years ago many of my liberal colleagues were astounded because I rose in the Senate to oppose a resolution introduced against the then Senator from Wisconsin, Mr. McCarthy; and I yielded to no one in the Senate in my attitude toward the policies and tactics of the Senator from Wisconsin; but in my speech I made clear that he was entitled to a bill of particulars. The resolution that was introduced, as I described it, out-McCarthied McCarthy.

The resolution did not set forth a bill of particulars. I said, "Recess tonight, and if I have to sit up all night with my administrative assistant, the two of us will submit a resolution tomorrow containing a bill of particulars, giving notice to the Senator as to the charges against him." And we did, as the record will show.

So I say that a person charged with a matter that raises the question of guilt in connection with alleged wrongdoing is entitled to a bill of particulars. He is entitled to be confronted by those who supply the information. He is entitled to cross-examine them. He is entitled to put on his defense in an orderly fashion—not to be stopped from putting on his defense, as so often happens in congressional hearings. The Senator from Missouri knows whereof I speak, because it is not uncommon, when someone is under investigation, to have a Member of Congress ask him a question, and when he starts to answer it and it is obvious that his answer will not be to the liking of the questioner, he is told, "That's enough of that, what do you have to say about this?"

If he says, "I want to complete my answer," unless some other member of the committee comes to his aid, as some-

times does not happen, he is not even permitted to put on his case in an orderly fashion.

As to the obtaining of information, the Senator knows as well as I do, that when he seeks the source of information, he is often told, "We cannot disclose that source, because if we do, then our source dries up, and we cannot obtain any further information."

I say that if it is the kind of source that will dry up under such circumstances, the sooner it is dried up the better. This is my position, because we have no right to take so-called evidence involving allegations that affect the rights of free men and women, and not give those men and women the opportunity to answer them, to cross-examine their accusers, and present their defense in regard to the source of the information. Being the brilliant lawyer that he is, the Senator from Missouri knows that the source of information, the source of evidence, is itself of vital importance for examination in any case involving an allegation of wrongdoing on the part of an individual.

So we have cut that short in this speech, because it involves subject matter that we shall have to discuss before this session is over, I am sure, in another format. I only wish to re-emphasize what I have been saying—and I think it is what the Senator is bringing out by clear implication, and sometimes by direct statement, in the work he is doing in his committee—we need to see to it that the Bill of Rights, which includes these procedural guarantees upon which our substantive rights are completely dependent, is followed in the administration of justice, whether it is by a congressional committee, before a justice of the peace, by a police court, or by the Supreme Court of the United States.

Mr. LONG of Missouri. I have one further question about the OCD program. Does the Senator know it is the general practice, in some of the agencies, after a suspect has been given an OCD number, to decide he is guilty then and there? Then agents are sent out to secure evidence to convict him of any crime he may be guilty of? Normally, law enforcement personnel are charged with finding the persons committing crimes. First comes the crime, then search is made for the person who committed it. In the OCD program certain suspected criminals were given OCD numbers without any specific crimes in mind. Thereafter, Federal agents were sent out to find crimes to fit these "criminals."

I wish some of the overzealous agents of the departments that we have heard about, and who have testified before my committee, could have heard the Senator's statement.

He mentioned the difficulty encountered in obtaining the records from these various agencies. We have tried very hard, and have had great difficulty. Most of the reports and records from the Internal Revenue Service have not been made available to the subcommittee, despite repeated requests. Some of them we have been able to get were incomplete and incorrect, and IRS has later come in and amended them.

It had been only recently, since the state of the Union message by the President of the United States, that representatives of the Bureau of Narcotics and the Bureau of Customs have cooperated at all. As late as yesterday, they came to my office. The Bureau of Customs finally agreed to answer our questionnaire—which they have had for over 2 years—and to furnish us some of the evidence. The Bureau of Narcotics still refuses to answer our questionnaire on eavesdropping.

But since the state of the Union message from the President, apparently word has seeped down to these various agencies that they must come clean, and we are getting more cooperation, the last week or two, than we had received at any time during the past year.

Mr. MORSE. I am glad that the Senator has interjected again. I say now what I intended to say at the end of my speech, that I cannot begin to tell the Senator from Missouri what a source of inspiration he is in carrying out his responsibilities of chairman of the Long subcommittee, to those of us who have stood for so long in this body in opposition to what we have considered to be a policy that is cancer-like in its growth, taking over our body politic in this country, eating away the rights of privacy of free men and women.

I merely wish to add that the reason that I have expressed my disagreement with this policy over the years is that I have seen it coming for a long time, and I fear for my grandchildren if we, in our time, do not put a stop to the spread of this cancer of outlawry within the administration of government under the pretense that it is necessary in order to protect the innocent. I wish to say that the Senator has made a great contribution. No doubt he will make many other contributions, and will go down in history known for other great services to the people of Missouri and to the Nation, but I do not think any of them could possibly exceed this one in importance, because I think it goes to the very substance of freedom itself.

Mr. FONG. I, too, wish to voice my strong disapproval of the use of such devices by agencies of our Federal Government. I, like Senators Morse and Long, am fearful that if these illegal eavesdropping practices continue, we will soon become a nation under fear—a police state.

I commend the Senator for his very strong stand against these illegal activities. I wish, also, to discuss this subject. I have prepared a brief statement of the matter. If the Senator will permit me to present it at this time, I shall appreciate it. In my State we believe in all of the civil liberties and civil rights secured to us by the Constitution. We believe in freedom. We believe that every man should be safe in his home and that his constitutional rights should be guaranteed to him.

Mr. President, during the 89th Congress, the Judiciary Subcommittee on Administrative Practice and Procedure, whose chairman is the distinguished junior Senator from Missouri [Mr. Long], investigated and held hearings on the wiretapping practices of all Federal agencies, except those considered a part of the "national security community."

On the ground that the Department of Justice was a part of this security community, that agency was exempted from the subcommittee's investigation.

The results of these hearings and investigation were quite startling.

They showed that even though, one, the Federal Communications Act of 1934 outlaws the interception and divulgence of telephone communications without the express consent of either party to the conversation, and, two, even though the official policy of the Federal agencies has been to restrict the use of electronic monitoring devices to cases in which the national security was involved—more than 60 agencies of Government have at their disposal extensive electronic monitoring equipment which are unhesitatingly used as a normal part of any investigations they may conduct.

In short, the hearings revealed widespread use of wiretapping by our Federal agencies.

Although the Department of Justice was not included in the subcommittee's investigation, the hearings showed that Justice was in fact very much involved in electronic surveillance in many cases not related to national security interests.

For example, a memorandum—IRD—94—issued some years ago, authorized and extended the use of electronic surveillance to criminal cases. That memorandum also set up the Organized Crime Division of the Department.

At that time, the investigative agents of some 26 other agencies were swung behind this Division's efforts, and wiretapping and bugging became an everyday duty for thousands of employees of the Federal Government.

These facts were divulged in the course of the hearings by Senator Long's subcommittee.

It is thus evident that in many instances in which the national security is not involved, many Federal agencies were engaged in wiretapping activities for the Justice Department, particularly as regards the Organized Crime Division.

It is also obvious that the latest electronic techniques have been widely used for years in cases where they should never have been used.

Mr. President, it has been suggested during this colloquy that the time has come for a full-scale investigation of the operations of the Department of Justice.

In view of the findings of the subcommittee, I believe that the Justice Department should be called to account by the subcommittee in all aspects of its work which do not relate to national security operations.

I should point out that all 10 cases where the Justice Department has gone into court and asked that convictions be set aside because evidence obtained by illegal wiretapping and bugging had been submitted in court, every one of these cases involved convictions in the area of tax evasion or wagering. None of them involved questions of national security.

Unless the Long subcommittee—or another committee—calls the Justice Department to account for its electronic

surveillance activities, we shall never know whether President Johnson's directive to restrict these operations to only certain national security cases is being followed.

As we pursue this matter, we are once again reminded that we can never relax our vigilance to protect our right to privacy—the right to be left alone, the right against unreasonable search and seizure guaranteed us by the fourth amendment to our Constitution.

As a U.S. Senator, and as an attorney with long experience in defense of people accused of crime in the State courts of Hawaii, I have been firmly opposed to the determined efforts in past sessions of Congress made by the U.S. Attorney General to enact legislation allowing the Federal Government to invade the privacy of our lives by making wiretapping legal.

For example, in 1961 and again in 1963, the Attorney General asked Congress for authority to tap telephones and to use what is overheard as legal evidence in criminal trials. In effect, he wanted the power to eavesdrop, not only when a crime was already committed, but also when in his judgment a crime was about to be committed.

An American citizen's home is not likely to be much of a castle if law enforcement authorities can barge into it without so much as a warrant whenever they happen merely to suspect that he was about to commit a crime.

I consider this to be a gross encroachment on one of the most valued rights of a citizen—the right of privacy and to be personally secure. It was against precisely these kinds of police state tactics that our Founding Fathers rebelled from England and established our Republic.

Justice Brandeis recognized this right when he said:

> The makers of our Constitution . . . sought to protect Americans in their beliefs, their thoughts, their emotions, and their sensations. They conferred as against the Government the right to be let alone—the most comprehensive of the rights of man and the right most valued by civilized men.

With modern electronic devices and tiny transistorized instruments, conversations within the home and office could be recorded without tapping any wire. The intimacies of private life could be made public without a key being turned or a window raised.

A wiretap cannot be limited to a particular person, place, or purpose. It is by its very nature unlimited and unlimitable. Whenever a tap is placed on a phone, it monitors all conversations on that phone, and every phone in the world which may be connected with it.

Of course, all Americans are concerned that those who violate the law are apprehended and convicted. But if wiretapping is made legal, is not the price we must pay—the loss of our personal liberty—far too high a price?

When we open this door to the Government, as Alan Barth rightly points out, it is only a very short step to allowing the Government to rifle our mails and search our homes.

Mr. Barth said further:

> A great deal could be learned about crime by putting recording devices in confessionals and in physicians' consulting rooms, by compelling wives to testify against their husbands, by encouraging children to report the dangerous thoughts uttered by their parents, the trouble with these techniques, whatever their utility in safeguarding national security, is that a nation which countenances them ceases to be free.

Any of these actions would clearly violate the guarantees of the fourth amendment to the Constitution:

> The right of the people to be secure in their persons, houses, papers and effects against unreasonable searches and seizures shall not be violated.

These guarantees have been a part of Anglo-Saxon law since the 15th century. Nothing has been deemed more fundamental to freedom than the concept that a man's home is his castle. William Pitt put it in these eloquent words:

> The poorest man may, in his cottage, bid defiance to all the forces of the Crown. It may be frail; its roof may shake; the wind may blow through it; the storm may enter, the rain may enter; but the King of England cannot enter—all his force dares not cross the threshold of the ruined tenement.

What is at stake in any proposal to legalize wiretapping is our very freedom embodied in those liberties inalienably guaranteed us by the Constitution. These are high stakes. A free society guards its liberties jealously. The most important lesson of history America has learned is that when freedom is denied to one man, it is denied to all.

The elimination of all forms of electronic surveillance from our national life is in my opinion a matter of utmost urgency. In our efforts no agency of Government should be regarded as sacrosanct.

I urge that the Congress investigate the Department of Justice, to determine whether or not justice has been done, and whether or not equal justice has been dealt all Americans. .

Mr. MORSE. I thank the Senator from Hawaii for the points he has raised in his able and eloquent speech. I shall cover these points later in my remarks.

Before I return to the next point of my prepared speech, because the Senator from Missouri and I had been talking about some procedures that are being followed in some of our Federal departments—and without commenting upon the substantive nature of the charges, but limiting myself to the procedural matters involved—I should like to illustrate some of the matters that the Senator from Missouri and I have been talking about with other Members of the Senate who have intervened in this discussion. It involves the Otepka case, which has become somewhat of a cause celebre in the State Department.

I shall not comment upon the substance of the charges. It is my understanding that no crime or no national security problem was involved. Yet, an official of the State Department, in the spring of 1963, tapped Otepka's telephone. This was admitted. I have never read anything in the case that indicates that this official of the State Department was even reprimanded, although it is true—it might be sort of an unknown reprimand or an indirect reprimand—that some time later he resigned from the State Department. But that resignation, interestingly enough, followed a considerable amount of comment about the case on the Hill. In fact, there has been a running comment for a long time. Every once in awhile we get a new chapter of discussion in regard to it. But I am informed that the State Department official who did the tapping, and who resigned, is now working for the Federal Communications Commission.

This set of facts raises questions of puzzlement. I think the Senator from Missouri is familiar with the case I am talking about and the reason why I am puzzled. I believe that the matter should be gone into by fair procedure for a determination out in the open, so that no one can retain any suspicion as to whether or not these rights and guarantees about which I have been talking this afternoon were fully protected.

Mr. LONG of Missouri. The John Reilly to whom the Senator has referred has a very fine position with the FCC. Would the Senator not think that it is apropos that the man is in a position where he can check other people, in violation of section 605?

Mr. MORSE. I have expressed my puzzlement.

In United States against Haggarty, in the northern district of Illinois, on May 16, 1966, the official position of the Government in that case, which involved the electronic monitoring of one of its employees over a period of 8 months, was stated:

> It is the Government's position that the Government is entitled to intercept by wiretap conversations on Government phones. If by some chance it is illegal to listen in on Government telephones without the consent of either party, if that is illegal, then we will produce anything that we have received from doing this.

It is not surprising that this elite corps of 200 inspectors checking on agents of IRS over a period of years failed to report one single case of illegal wiretapping. They did not regard wiretapping as either a violation of law or departmental regulations.

The record reveals that illegal wiretapping by the Internal Revenue Service is not an occasional action of an overzealous agent, but is the logical and reasonable consequence of a well-defined program which begins in the special school on wiretapping and bugging, which graduates approximately 30 agents each year, and upon graduation the agent receives a wiretap kit, including burglar tools for illegal breaking and entry, as well as other electronic equipment necessary for the performance of these duties.

When one of the agents was questioned by Senator Long regarding his illegal wiretapping activities, his defense was that he was simply carrying out what appeared to be the policy of the Department. He said:

> If I am trained to wiretap, if I am given the tools of wiretapping, why shouldn't I assume I am expected to do this as a part of my official duty?

The depth and extensiveness of wiretap activity among the 3,000 agents of the Internal Revenue Service has never been disclosed. It ought to be. We are entitled to it. I am sure that the Senator from Missouri and his committee will continue to press to ascertain whether we can have this information made publicly available to the American people.

On repeated occasions Senator Long has requested Commissioner Sheldon Cohen to produce the affidavits of their agents regarding their wiretap and bugging activities, their diaries and the report of the Commissioner's Special Committee appointed to conduct, in depth, an investigation on electronic snooping by agents of the Service. On three separate occasions, Senator Long has requested this information, and in each case, I understand, Commissioner Cohen refused to comply with any of these specific requests—or, at least, has not fulfilled them to date.

However, on December 7, and in supplemental teletype communications of December 29 and 30, 1966, and in January 1967, Commissioner Cohen directed all regional Directors to have all employees of the Department engaged in investigation, and wherever possible former employees of the Department report in detail cases, including time and place, where electronic snooping was used, and whatever evidence, if any, was obtained through these methods.

I shall submit for the Record the teletype communications referred to which are indeed revealing of the type and depth of the problem.

I ask unanimous consent to insert at this point in the Record teletype communications of December 29 and 30, 1966, and supplemental communications.

There being no objection, the documents were ordered to be printed in the Record, as follows:

Supplemental Communications on Reporting of Electronic Surveillance by IRS Employees and Others

From: Sheldon S. Cohen, Commissioner, IRS, Washington, D.C.

To: All Regional Commissioners, IRS.

My memorandum dated December 6, 1966, explained why it is essential for the service to obtain complete information on instances of electronic surveillance, including: The overhearing or recording of any telephone or nontelephone conversation unless with the consent of every party to the conversation; the use of a pen register; the use of a tailing device on a vehicle without the consent of the owner, related to investigations conducted by the Service. Information requested by the memorandum pertained to specific cases listed in the attachments or to be subsequently transmitted. Since complete information is required to assure that no injustices under the law may result or have resulted from the use or potential use of information obtained by electronic-surveillance, it is absolutely necessary that all known or reasonably suspected instances of electronic surveillance be immediately reported, regardless of whether the case involved is or is not named on a list previously transmitted to you. The full impact of investigative acts cannot be evaluated without knowing all specific instances of electronic surveillance.

I consider the needs of justice to be so compelling that I authorize you to assure all employees that no administrative action, repeat, no administrative action, neither disciplinary nor discriminatory as to career advancement, will be taken against an employee based, on instances of electronic surveillance in organized crime or in similar investigations prior to July 1, 1965, to be reported now, or on failure to have previously reported such instances, provided the failure to report was not both willful and while under oath. In order that the national office can have immediate knowledge of all instances of electronic surveillance, each A. & T.T. criminal investigators, special agent, intelligence and A. & T.T. supervisor, division or branch chief, and OCD coordinator, including any employee who has held one of these positons at any time since January 1, 1957, will submit an immediate report. Wherever a former employee is known to be available and believed to be amenable to submitting such a report, he should be contacted and asked to submit a report. The report must identify each specific instance of electronic surveillance in which the employee participated or about which he has knowledge or reasonable suspicion, regardless of whether the surveillance was conducted by employees of the service or by persons outside the service. Attempts at surveillance should be reported even though no information was obtained or used. The report must try to identify (1) each case where electronic surveillance was utilized or attempted by name or case number, if known, (2) the type and location of such surveillance, (3) the date or dates of such surveillance, (4) the names of any other cases (other than those identified in (1) above) in which information obtained from surveillance was or might have been utilized, and (5) the names of other service employees believed to have knowledge of the surveillance. Negative reports to this office are required.

Reports required by this teletype should be submitted to the District Director by district personnel, or to the regional Commissioner by regional personnel, as soon as possible and no later than January 13.

Regional Commissioners and District Directors will forward the reports to the Assistant Commissioner (compliance) daily as received and conduct a followup to assure that a report has been submitted no later than January 18, by all employees required to report. Immediately after submitting the report required herein, each employee will expeditiously complete and submit in triplicate a questionnaire form of the type required by my December 6 memorandum of each case or incident raised in the report required by this teletype, except for those cases identified on a list previously transmitted to you (for which questionnaires are required under earlier instructions). Distribution will be in accordance with instructions in the December 6 memorandum.

Regional Commissioners and District Directors should reproduce this teletype and my December 6 memorandum as necessary to assure that all appropriate present and former employees receive a copy of each.

---

From: Sheldon S. Cohen, Commissioner, IRS, Washington, D.C.

To: All Regional Commissioners, IRS.

To: All District Directors, IRS.

To: District Director IRS, Jackson, Miss.

The following additional information covering the use of electronic surveillance equipment referred to in my teletype of December 29, 1966, should be furnished to all A&TT criminal investigators, special agents, intelligence and A&TT supervisors, division or branch chiefs and OCD coordinators.

1. All instances of electronic surveillance that occurred after July 1 1958, should be reported, except that:

A. Instances of the use of regularly installed telephones for the purpose of overhearing telephone conversations with the permission of one of the parties to the conversation should not be reported.

(E.g., listening in on informants or undercover agents placing bets or purchasing evidence). The consenting party may be a Service employee.

B. Instances of electronic surveillance conducted by persons outside the Service should be reported only if the information gained by the surveillance is in some way related to an Internal Revenue Service case.

C. Instances of electronic surveillance in investigations under the direction of the inspection service need not be reported by compliance personnel. Since the inspection service is highly centralized, this information is readily available in the national office.

2. All regional office technical employees in intelligence and alcohol and tobacco tax should submit reports.

3. The date required for submission of the reports is extended to January 27, 1967.

4. Authority is granted to reproduce Form M-0533 through use of regional facilities.

5. The phrase in questions 11, 12, and 13 in the questionnaire Form M-0533, "without the knowledge of one of the parties" is defined as indicated in my teletype of December 29, 1966; i.e., "the overhearing or recording of any telephone and non-telephone conversation unless with the consent of every party to the conversation." An exception is provided in item 1A above.

6. Assurance that no adverse administrative action will be taken relates to the use of electronic surveillance techniques in only those cases involving organized crime subjects, other racketeers and subjects of wagering, liquor or firearms investigations. However, no adverse administrative action is contemplated with regard to the use of legal and appropriate investigative techniques in any type of case.

I want to make clear that many instances you are being asked to report were not only legal but were expected in connection with your investigative responsibilities. The purpose of these requests are to place the Service in a position to give full and detailed information to Justice and Congress in connection with requests received and to the courts when deemed necessary.

---

Copy of a Teletype From the Commissioner of Internal Revenue to All District Directors, Internal Revenue Service, Dated and Received December 30, 1966.

My memorandum dated December 6, 1966 explained why it is essential for the Service to obtain complete information on instances of electronic surveillance, including: The overhearing or recording of any telephone or non-telephone conversation unless with the consent of every part to the conversation; the use of a pen register; the use of a tailing device on a vehicle without the consent of the owner, related to investigations conducted by the Service. information requested by the memorandum pertained to specific cases listed in the attachments or to be subsequently transmitted. Since complete information is required to assure that no injustices under the law may result or have resulted from the use or potential use of information obtained by electronic surveillance, it is absolutely necessary that all known or reasonably suspected instances of electronic surveillance be immediately reported, regardless of whether the case involved is or is not named on a list previously transmitted to you. The full impact of investigative acts cannot be evaluated without knowing all specific instances of electronic surveillance, I consider the needs of justice to be so compelling that I authorize you to assure all employees that no administrative action, repeat, no administrative action, neither disciplinary nor discriminatory as to career advancement, will be taken against an employee based on instances of electronic surveillance in organized crime or in similar investigations prior to July 1, 1965, to be reported now, or on failure to have previously reported such instances, provided the failure to report was not both willful and while under oath. In order that the national office can have immediate knowledge of all instances of electronic surveillance, each AT&T criminal investigator, special agent, intelligence and AT&T supervisor, division or branch chief, and OCD coordinator, including any employee who has held one of these positions at any time since January 1, 1957, will submit an immediate report. Wherever a former employee is known to be available and believed to be amenable to submitting

such a report, he should be contacted and asked to submit a report. The report must identify each specific instance of electronic surveillance in which the employee participated or about which he has knowledge or reasonable suspicion, regardless of whether the surveillance was conducted by employees of the Service or by persons outside the Service. Attempts at surveillance should be reported even though no information was obtained or used. The report must try to identify (1) each case where electronic surveillance was utilized or attempted by name or case number, if known, (2) the type and location of such surveillance, (3) the date or dates of such surveillance, (4) the names of any other cases, other than those identified in (1) above, in which information obtained from surveillance was or might have been utilized, and (5) the names of other Service employees believed to have knowledge of the surveillance. Negative reports to this office are required. Reports required by this teletype should be submitted to the district director by district personnel, or to the regional commissioner by regional personnel, as soon as possible and no later than January 13. Regional commissioners and district directors will forward the reports to the assistant commissioner, compliance, daily as received and conduct a followup to assure that a report has been submitted no later than January 18, by all employees required to report. Immediately after submitting the report required herein, each employee will expeditiously complete and submit in triplicate a questionnaire form of the type required by my December 6 memorandum on each case or incident raised in the report required by this teletype, except for those cases identified on a list previously transmitted to you, for which questionnaires are required under earlier instructions. Distribution will be in accordance with instructions in the December 6 memorandum. Regional commissioners and district directors should reproduce this teletype and my December 6 memorandum as necessary to assure that all appropriate present and former employees receive a copy of each.

Mr. MORSE. It should be noted that while the communication of December 30 calls for unqualified disclosure, by the agents and security officers of A.T. & T., the supplemental communications impose serious limitations and exceptions of the type of information to be disclosed.

At the close of the supplemental communications the following exceptions are noted, and need not be reported:

a. Instances of the use of regularly installed telephones for the purpose of overhearing telephone conversations with the permission of one of the parties to the conversation should not be reported. (e.g., listening in or information or undercover agents placing bets or purchasing evidence.) The consenting party may be a service employee.

What about the other poor fellow? That exception does not even conform to any element of justice. That exception does not even meet the test of half justice, simply because half of the two has given consent to have his conversation taken down. We must not forget, as the Supreme Court has pointed out in some of its decisions on this subject matter, that when a telephone is tapped, everything is heard. One cannot select the things that he thinks he should be given the right to hear.

My objection is that the tap is a violation of the constitutional right of privacy.

Mr. LONG of Missouri. Does the Senator know that agencies that engage in this practice can rent equipment from A.T. & T. which permits them to tap and listen in on any telephone line that goes through any switchboard, and that the people in these agencies can sit back in their air-conditioned office and listen in on the communications?

The IRS office in Washington has that equipment.

Mr. MORSE. I did not know it.

I do not think the Senate can ascribe any abuse to preservation by agencies of our Government that would surprise me in the slightest. I think this has become such a honeycomb situation—what I have previously given the descriptive phrase "so cancerous in the body politic"—it is running through much of our governmental system.

Returning to the exceptions:

b. Instances of electronic surveillance conducted by persons outside the service should be reported only if the information gained by the surveillance is in some way related to an Internal Revenue Service case.

c. Instances of electronic surveillance in investigations under the direction of the inspection service need not be reported by compliance personnel. Since the inspection service is highly centralized, this information is readily available in the national office.

From this teletype list of exceptions one may infer that Commissioner Cohen is either not aware of President Johnson's Executive order of June 30, 1965, prohibiting all agencies of the Federal Establishment the use of all electronic listening devices, as well as the interception of all telephone and other wire communications, in all instances other than those involving the collection of intelligence affecting the national security, or he does not intend to follow the Executive order at all. In either case, Commissioner Cohen owes the President of the United States and the Congress an explanation.

In my judgment, Commissioner Cohen's exceptions to the President's Executive order banning electronic snooping in Federal agencies is typical of the attitude of the Federal bureaucracy. Because of this attitude, bugging and other forms of electronic snooping have grown by leaps and bounds despite the law, Executive orders, and official policy to the contrary.

Is it possible that Commissioner Cohen is still pursuing the policies of his predecessor on February 24, 1961, in a memorandum to the Assistant Commissioner — Operations — regional commissioners and district directors, stated:

As a part of the Government's drive against organized crime, the Attorney General has requested the Service to give top priority to the investigation of the tax affairs of major racketeers . . . *in conducting such investigations full use will be made of available electronic equipment and other technical aids.*

Equally disturbing to me, Mr. President, are the series of confessions or admissions of illegal wiretapping by the Department of Justice in a series of what is now an ever-increasing number of cases, referred to by the Senator from Hawaii [Mr. FONG].

The Acting Attorney General Ramsay Clark and Solicitor General Thurgood Marshall are to be commended for the position taken by the Department in its supplemental memorandum in the *Black* case—*Black* v. *U.S.*, 385 U.S. 26 (1966). This memorandum reveals a serious intention to conform Department practices to the policies declared by the President on June 30, 1965, in his Executive order banning electronic snooping in all cases excepting those affecting the national security. I ask unanimous consent that the supplemental memorandum be set forth at this point in my remarks.

There being no objection, the supplemental memorandum was ordered to be printed in the RECORD, as follows:

[In the Supreme Court of the United States, October term, 1966]

Fred B. Black, Jr., Petitioner. v. United States of America—Supplemental Memorandum for the United States

This supplemental memorandum is submitted in response to this Court's order of June 13, 1966, requesting "a response from the Government in this case, not limited to, but directed in particular toward the kind of apparatus used by the Government; the person or persons who authorized its installation; the statute or Executive Order relied upon; the date or dates of installation; whether there is in existence a recording of conversations heard; when the information concerning petitioner came into the hands of any attorney for the government and to which ones, as well as what was made of the information in the case against petitioner."

1. The listening device referred to in our memorandum of May 24, 1966, was a tubular microphone which was installed through the common wall of a room adjoining the suite occupied by petitioner at the Sheraton-Carlton Hotel in Washington, D.C. The microphone extended through the six-inch common wall and one-fourth of an inch into the one-half inch. molding of petitioner's suite. It was installed on the afternoon of February 7, 1963, and agents of the Federal Bureau of Investigation began to monitor conversations in petitioner's suite on the afternoon of the following day. The installation was removed and the monitoring was terminated on April 25, 1963.

No recording of any portion of the monitored conversations exists today. The assignment of the monitoring agents was to keep a contemporaneous log in which were summarized the conversations in petitioner's suite. A tape recorder was available and was used to record particular conversations whenever a monitoring agent felt that such a recording would be helpful in preparing his summaries. After the summaries were prepared, the used tape was erased.

While none of the recordings are, consequently, available today, the handwritten notes of the monitoring agents do exist. These notes summarize the conversations, and, in some instances, contain excerpts from conversations.

2. No specific statute or executive order was relied upon in the installation of the listening device in question. Under 5 U.S.C. 300, the Attorney General has the authority to appoint officials for the detection and prosecution of crimes against the United States. In carrying out this responsibility, Attorneys General have delegated to the Director of the Federal Bureau of Investigation the duty to gather intelligence, to investigate violations of federal laws, and to collect evidence in cases in which the United States is or may be a party. See 28 C.F.R. § 0.85 (1966 rev.).

An exception to the general delegation of authority has been prescribed, since 1940, for the interception of wire communications, which (in addition to being limited to matters involving national security or danger to human life) has required the specific authorization of the Attorney General in each instance. No similar procedure existed until 1965 with respect to the use of devices such as those involved in the instant case, although records of oral and written communications within the Department of Jus-

tice reflect concern by Attorneys General and the Director of the Federal Bureau of Investigation that the use of listening devices by agents of the government should be confined to a strictly limited category of situations. Under Departmental practice in effect for a period of years prior to 1963, and continuing into 1965, the Director of the Federal Bureau of Investigation was given authority to approve the installation of devices such as that in question for intelligence (and not evidentiary) purposes when required in the interest of internal security or national safety, including organized crime, kidnappings and matters wherein human life might be at stake. Acting on the basis of the aforementioned Departmental authorization, the Director approved installation of the device involved in the instant case.

Present Departmental practice, adopted in July 1965 in conformity with the policies declared by the President on June 30, 1965, for the entire federal establishment, prohibits the use of such listening devices (as well as the interception of telephone and other wire communications) in all instances other than those involving the collection of intelligence affecting the national security. The specific authorization of the Attorney General must be obtained in each instance when this exception is invoked.

3. The information concerning petitioner obtained by the monitoring agents was submitted to their superiors in the Federal Bureau of Investigation in the form of the logs previously mentioned. Some of this information was then incorporated into two reports and two memoranda captioned "anti-racketeering" since these dealt with petitioner's possible affiliation with organized criminal activity in the United States.* The reports, dated April 17, 1963, and July 12, 1963, were transmitted by the Federal Bureau of Investigation to the Criminal Division of the Department of Justice, and the memoranda, dated April 5, 1963, and April 9, 1963, were sent to the Attorney General with copies to the Criminal Division. The date on which the April 1963 report was received by attorneys in the Organized Crime and Racketeering Section is not known, but it was transmitted to the Office of the Assistant Attorney General in charge of the Criminal Division, where it was received on November 6, 1963. The July 1963 report was received in the Organized Crime & Racketeering Section on August 2, 1963, and in the Office of the Assistant Attorney General in charge of the Criminal Division on October 28, 1963. The memoranda were received in the Office of the Attorney General on April 5 and April 9, 1963, respectively.

Neither the reports nor the memoranda were seen by attorneys of the Tax Division responsible for the prosecution of the tax evasion charges against petitioner until January 1964 when, in preparing for trial, they requested from the Criminal Division such material as the latter possessed concerning petitioner. The F.B.I. reports and memoranda were included in the material transmitted pursuant to this request. They were received and examined by the Tax Division attorneys some time between January 31, 1964, and April 15, 1964, when petitioner's trial began.

The bulk of the information contained in the reports had been obtained from sources other than the monitoring. Neither the reports nor the memoranda indicated that any portion of the information was derived from a listening device.

The Tax Division attorneys found nothing in the F.B.I. reports or memoranda which they considered relevant to the tax evasion case. No information from these reports or memoranda (whether obtained from the listening device or from any other source) was used by government counsel in petitioner's tax-evasion trial. The charges against petitioner in this case were based upon his failure to include in his income tax returns for 1956 through 1959 certain specific items of income. The proof that petitioner had received these items in those tax years was obtained not by the Federal Bureau of Investigation but by agents of the Internal Revenue Service in an investigation begun in the spring of 1960 and concluded late in 1962. On December 12, 1962, the Internal Revenue Service referred the case to the Tax Division of the Department of Justice for criminal prosecution. All evidence produced by the government at petitioner's trial was detailed in any accompanying report of the Internal Revenue Service. Neither additional evidence nor any lead to additional evidence was obtained from the F.B.I. reports and memoranda.

In connection with an inquiry on an unrelated matter, the F.B.I. informed the Attorney General and the Criminal Division in late August 1965 that a listening device had been installed in petitioner's hotel suite. The logs were then obtained and reviewed within the Criminal Division in connection with the unrelated matter. However, the fact that conversations between petitioner and counsel whom he had then retained had been overheard was not noted by any attorney in the Department of Justice until after April 21, 1966, when the logs were again examined, this time by attorneys in the Tax Division who were familiar with the history of petitioner's case. They completed their review in early May and brought this fact to the attention of the Attorney General. At his direction, the Solicitor General was advised on May 10, 1966, that a listening device had been in operation in petitioner's hotel suite and that such conversations had been overheard, and our memorandum of May 24, 1966, was accordingly filed in this Court.

Respectfully submitted.

Thurgood Marshall,
*Solicitor General.*

* Recital of these facts is not intended to suggest that any wrongdoing on the part of petitioner was uncovered by the monitoring.

July 1966.

Mr. MORSE. In nine additional nonsecurity cases, the Department has admitted to electronic snooping, most of which emanated from the policies authorizing the use of electronic devices at the time of the creation of the Organized Crime Division in the Department of Justice in 1961.

Mr. President, the frank admission of the Solicitor General in these cases gives rise to the need for an in-depth investigation of the Department of Justice regarding past practices. As I stated on the floor of the Senate in 1954:

What is needed is public disclosure. What is needed is to bring the light to bear on such practices. As we brought the light to bear on the third-degree tactics of police departments, the tyrannical browbeating conduct of prosecutors, and corruption in the administration of criminal justice, remedies were forthcoming to bring to an end those tyrannical practices.

As Senator LONG has so eloquently demonstrated, a good public policy in the field of wiretapping is not enough, because the age-old question asked by Juvenal still remains: "Who will guard the guards?"

While Senator LONG's original desire to avoid an investigation of the agencies in the "security community" is understandable, a thorough-going investigation of the Justice Department should no longer be delayed, as pointed out also by the Senator from Hawaii [Mr. FONG], particularly in view of the fact that the Department's admission of wiretapping and bugging took place in 10 nonsecurity cases. Any investigation would, of course, treat national security matters as classified information. Of all agencies of the Federal Government, the Department of Justice has the greatest opportunity to abuse its great power for political purposes.

As I stated in my speech in 1954:

There is no question about the Attorney General's being a political officer. . . .

I was once offered the Attorney Generalship of the United States, and in the discussion that took place prior to my declination, I made very clear that if I accepted the Attorney Generalship of the United States, political considerations and pressures would have no place in the administration of the Department of Justice.

In the light of these allegations of wiretapping and bugging, certainly the Congress has a right to know whether the Hoffa case—*Hoffa* v. *U.S.* Sup. Ct., 17 L. Ed. 2d. (1966)—has been included among the cases presently being investigated for electronic surveillance by the Department of Justice.

Mr. President, I ask unanimous consent to insert in the CONGRESSIONAL RECORD at this point in my remarks, an editorial from the January 30, 1967, issue of the Nation magazine, which raise the question as to whether or not the Department of Justice, in the Hoffa case, is pursuing the policy laid down in Black and Schipani—*Schipani* v. *U.S.*, 362, F. 2d, 325, cert. denied, 385 U.S. 26 (1966) cases.

### WHY NOT HOFFA?

The Teamsters' union has offered a $100,000 reward for information leading to the disclosure that the Department of Justice relied on illegal wire taps or "bugs" in securing the conviction of James Hoffa. William Loeb, the New Hampshire publisher whose newspaper once secured a substantial loan from the Teamsters and who apparently wants to demonstrate his gratitude, has put up another $100,000 on the same terms. But are either of these rewards really necessary?

In the recent case involving Joseph Schipani, the Department of Justice consented to a reversal of the conviction because illegal wire taps had been used. In this case the Solicitor General, Thurgood Marshall, stressed the point that since the Supreme Court exercises a supervisory role over methods used in federal prosecutions, he felt it his duty to inform the court of the taps. Mr. Marshall also said that the government had initiated an intensive survey of pending cases to determine if convictions had been obtained by "tainted" or illegally obtained evidence. Reports from Washington indicate that as many as 200 cases are being scrutinized as part of this general survey. This month, in a case involving seven Florida residents. Mr. Marshall informed the court that although none of the seven had been under "direct electronic surveillance," two of them were participants in conversations which were electronically monitored. This is the ninth instance in which the Department of Justice has volunteered a disclosure of this kind. Is the Hoffa case included in the survey? If not, why not? Have the records of the case been investigated to determine if any illegal wire taps or bugs were used? If Schipani was entitled to a frank statement of the facts, why isn't Hoffa entitled to the same treatment? After Fred Black's conviction (see "A Dirty Business," *The Nation*, December 26), the Department voluntered the information that illegal wire taps had been used. If Black and Schipani, why not Hoffa?

Mr. MORSE. Mr. President, I commend my colleague, the junior Senator from Missouri, for his courage and dedication during the past 3 years in pursuing relentlessly the abuse of official policy by the Federal bureaucracy. I hope the investigation by the Long subcommittee will be extended to the Department of Justice and to the agencies in the so-called security community on matters where no security problem is involved.

Summing up, I would like to remind the Senate that official declarations against wiretapping either in the form of Executive order or legislation are not simply enough. Official policy must be implemented by an informed public opinion to demand enforcement of this policy. Despite the revelations of the Long subcommittee, I am informed that not one civil servant has been disciplined for violations of State or Federal law either in terms of departmental discipline or prosecution for violation of such law.

Only through an aroused public opinion which is aware that wiretapping affects the privacies of innocent persons, affects privileged and confidential relationships of husband and wife, parent and child, lawyer and client, doctor and patient; yes, the sanctity of the confessional, there must be a continuous exposure of these violations of individual rights. Wiretapping is indiscriminate. Wiretapping is in the character of a general tool. It is a form of Writs of Assistance, the very thing that James Otis protested against in 1761. Writs of Assistance are cited by historians as one of the causes of the American Resolution.

Mr. President, I urge the Long subcommittee to continue its unrelenting fight for public exposure—and I pledge to that committee my shoulder-to-shoulder support in its endeavors to bring to an end what I consider to be a violation of the precious constitutional rights in this country—and that it immediately will proceed to investigate violations of citizens' rights through wiretapping and bugging by the Department of Justice. A great constitutional guarantee pertaining to rights of privacy is involved.

Mr. President, I conclude by saying that one of the basic rights which determines the continuous freedom of the American people is the presumption of innocence. In my judgment, we cannot square this invasion of the constitutional guarantee of the right to privacy with that precious guarantee that all of us are protected by the presumption of innocence before we are brought to trial.

But that presumption of innocence cannot be separated from our constitutional right of privacy. That presumption of innocence cannot be separated from the right of the American people to be free and to have torn out of the body politic this cancerous growth of unconstitutionality which is involved in wiretapping devices used by the Government in so many of its agencies, and the same practice which is being adopted in States and local police departments across the Nation.

Mr. President, to make certain that I have permission to include all the material I want in the RECORD, I asked unanimous consent to have printed in the RECORD certain other material in regard to the wiretapping issue which I have raised this afternoon.

[Supreme Court of the United States—October Term, 1966]

Black v. United States—On Petition for Rehearing—No. 1029, October Term, 1965 Decided November 7, 1966.

Per Curiam.

In *Davis* v. *United States*, No. 245, October Term, 1966, we today denied the petition for certiorari. The sole question raised there (but not passed upon by the Court of Appeals because not necessary to its disposition) involved petitioners' claims that conferences between petitioners and their counsel were surreptitiously overheard and intercepted by law enforcement officials through concealed monitorial devices built into the jail where petitioners were being held for federal authorities. The Solicitor General did not deny the existence of the devices but said that there were no recordings of the conversation in question. He pointed out that since the case has been remanded by the Court of Appeals for a new trial on other grounds, a full exploration of this question could be made on retrial. In the light of these representations we denied the petition for certiorari so that the question might be fully explored at the new trial, as suggested by the Solicitor General.

In *Black* v. *United States*, No. 1029, October Term, 1965, the petitioner raises a similar question and while *Davis* v. *United States*, *supra*, is not controlling, its relation is obvious. In *Black* the Solicitor General advised the Court voluntarily on May 24, 1966, after the petition for certiorari had been denied but before an application for rehearing had been filed, that agents of the Federal Bureau of Investigation, in a matter unrelated to this case, on February 7, 1963, installed a listening device in petitioner's hotel suite in Washington, D.C. The device monitored conversations held in the hotel suite during the period the offense was being investigated and beginning some two months before and continuing until about one month after the evidence in this case was presented to the Grand Jury. During that period, "the monitoring agents," the Solicitor General advised, "overheard, among other conversations, exchanges between petitioner and the attorney who was then representing him" [Black] in this case. In a supplemental memorandum filed July 13, 1966, the Solicitor General, in response to an inquiry of the Court, stated that the recordings of such interceptions had been erased from the tapes but that notes summarizing and sometimes quoting the conversations intercepted were available, and that reports and memoranda concerning the same had been made. "Neither the reports nor the memoranda," he reported, "were seen by attorneys in the Tax Division responsible for the prosecution of" this case until January, 1964, when in preparing for trial they were included in material transmitted to them; that the reports and memoranda of the intercepted conversations were examined by the Tax Division attorneys and retained by them until April 15, 1964, when petitioner's trial began; and that the attorneys never realized until April 21, 1966, that any conversations between Black and his attorneys had been overheard and included in the transcriptions.

The Solicitor General advised further that the "Tax Division attorneys found nothing in the FBI reports or memoranda which they considered relevant to the tax evasion case." He suggests that the judgment be vacated and remanded to the District Court in which the "relevant materials would be produced and the court would determine, upon an adversary hearing, whether petitioner's conviction should stand." We have sometimes used this technique in federal criminal cases, *United States* v. *Shotwell Mfg. Co.*, 355 U.S. 233. However, its use has never been automatic. Indeed, in *Remmer* v. *United States*, 347 U.S. 227, we found it necessary despite the hearing in the District Court, to subsequently order a new trial on the merits, 350 U.S. 377. There are other complicating factors here that were not present in *Remmer*. There the judge had been informed of the alleged jury tampering, but here neither the judge, the petitioner or his counsel knew of the action of the federal agents. Moreover, the Solicitor General advises that the Tax Division attorneys did not know at the time of the trial that conversations between Black and his attorneys were included in the transcriptions. In view of these facts it appears that justice requires that a new trial be held so as to afford the petitioner an opportunity to protect himself from the use of evidence that might be otherwise inadmissible.

This Court has never been disposed to vacate convictions without adequate justification, but, under the circumstances presented by the Solicitor General in this case we believe that a new trial must be held. This will give the parties an opportunity to present the relevant evidence and permit the trial judge to decide the questions involved. It will also permit the removal of any doubt as to Black receiving a fair trial with full consideration being given to the new evidence reported to us by the Solicitor General.

The petition for rehearing is therefore granted, the order denying certiorari vacated, certiorari granted, the judgment of the Court of Appeals vacated and the cause remanded to the District Court for a new trial.

Mr. Justice Harlan, whom Mr. Justice Stewart poins, dissenting.

The denial of certiorari in No. 245, *Davis* v. *United States*—where the Court of Appeals for the Fifth Circuit has already ordered a new trial on grounds wholly unrelated to alleged eavesdropping and at which trial petitioners will have a full opportunity to explore their contention that the Government interfered with their constitutionally protected right to counsel—bears no solid relation to, still less furnishes justification for, what the Court has done in the present case. A brief statement of the circumstances of the *Black* disposition will reveal that in summarily vacating this final conviction and ordering a completely new trial the Court has acted prematurely.

In 1964, petitioner Black was convicted in the District Court of federal income tax violations. His conviction was affirmed by the Court of Appeals for the District of Columbia on November 10, 1965. 353 F. 2d 885. Certiorari was denied by this Court on May 2, 1966. 384 U.S. 927. Before Black's petition for rehearing was filed here, the Solicitor General filed a memorandum bringing to the Court's attention the fact that in the course of an unrelated criminal investigation Black's hotel suite had been "bugged" by the Federal Bureau of Investigation and conversations between Black and his attorney electronically recorded. The Solicitor General further stated that in consequence of an investigation, instituted by him following his discovery of this occurrence, he was able to represent to the Court that none of the information so procured had been utilized in Black's aforesaid prosecution. In a further memorandum, filed in compliance with a request from this Court, the Solicitor General has represented that it was not until late August 1965 that the Criminal Division of the Department of Justice learned that a listening device had been installed in Black's hotel suite and not until April 21, 1966, that attorneys in the Tax Division, responsible for the prosecution, learned that any conversations between Black and his counsel had been overheard.

The Solicitor General recognizes that Black is entitled to a full exploration of the matter, and to that end suggests that the case be

remanded to the District Court for a hearing and findings on the episode in question as it may bear on the validity of Black's conviction. Black responds that this course is inadequate and contends that this Court should, without more, forthwith order dismissal of the indictment in this income tax prosecution.

Without anything more before it than the representations made by both sides, the Court today orders a totally new trial in spite of the fact that the disclosures commendably made by the Solicitor General reveal no use of "bugged" material in Black's prosecution, and no knowledge by prosecuting attorneys that material may have been improperly obtained. I agree, of course, that petitioner is entitled to a full-scale development of the facts, but I can see no valid reason why this unimpeached conviction should be vacated at this stage. In *Davis, supra,* exploration of the alleged eavesdropping episode is appropriate upon the retrial of the case since the original conviction has already fallen on other grounds. In the *Black* case, however, a new trial is not an appropriate vehicle for sorting out the eavesdropping issue because until it is determined that such occurrence vitiated the original conviction no basis for a retrial exists. The Court's action puts the cart before the horse. The orderly procedure is to remand the case to the District Court for a hearing and findings on the issues in question. See *United States* v. *Shotwell Mfg. Co.,* 355 U. S. 233. See also *Remmer* v. *United States,* 347 U. S. 227, 350 U. S. 377. Unless and until the facts on this issue have been resolved and their legal effect assessed favorably to petitioner, this conviction should remain undisturbed.

The only basis I can think of for justifying this decision is that any governmental activity of the kind herein question *automatically* vitiates so as at least to require a new trial any conviction occurring during the span of such activity. But I cannot believe that the Court, without even briefing or argument, intends to make any such sweeping innovation in the federal criminal law by today's preremptory disposition of this case.

MR. JUSTICE WHITE and MR. JUSTICE FORTAS took no part in the consideration or decision of this case.

Mr. COOPER. I believe, with the Senator from Oregon and others, that it is very important that the Congress, in this year, look into this question thoroughly and take action to assure that the constitutional rights of all our citizens will be protected.

As the Senator from Oregon and others have pointed out today, these rights have been achieved at the cost of great effort, hardship, martyrdom—even blood and sacrifice, over the period of hundreds of years.

These rights should not be eroded. They will not be eroded if Congress and the people understand the issue and take action to protect the rights of every individual.

Mr. MORSE. Mr. President, I want to thank the Senator from Kentucky. Let me say for the RECORD that the source of this intervention, I think, is a very important source, for the Senator from Kentucky served on the bench in his State and he therefore knows whereof I speak when I talk about the importance of protecting the procedural rights of the people who may be brought to trial charged with wrongdoing.

Mr. McCARTHY. Mr. President, I join the Senator from Oregon [Mr. MORSE] and other Senators who have expressed concern about the practice of wiretapping, a concern which I certainly share. I also want to commend the Senator from Missouri [Mr. LONG] and the Subcommittee on Administrative Practice and Procedure for holding hearings on the invasion of privacy by Government agencies and to give my support for continuing its work.

The testimony which the subcommittee has already taken and previous testimony taken by the Subcommittee on Constitutional Rights, which held hearings in 1958 and several years following, show that the problem is far from solved, and I believe we must give close attention to this matter—not only to wiretapping but also to the whole run of procedures and the use of various electronic devices which constitute an invasion of privacy.

The problem is more serious when these practices are carried on by Federal officials, despite the Federal law and, in some cases, despite the law of the State.

It is surprising to read the testimony and to find examples such as the statement of Mr. Jack Schwartz, an Internal Revenue special agent from Pittsburgh. The Senator from Missouri inquired about his part in bugging an office. Mr. Schwartz said it was the only time he had done so. The Senator from Missouri asked him whether he was embarrassed being a party to illegal entry.

Mr. President, I ask unanimous consent that this exchange, which took place at the subcommittee hearing on July 14, 1965, and which is printed in part 3 of the committee hearings, pages 1252–1253, be printed in the RECORD.

SENATOR LONG INTERROGATING MR. JACK SCHWARTZ, INTERNAL REVENUE SPECIAL AGENT, FROM PITTSBURGH—HEARINGS ON JULY 14, 1965

Senator LONG. Did you not feel just a little embarrassed about being a party to a group illegally entering an office, breaking into an office?

Mr. SCHWARTZ. I never gave it a thought sir, to be honest with you. Those of us who are in the organized crime drive, and I think I was the first one in Pittsburgh in that drive, all felt very proud to be a part of it.

Senator LONG. Yes, but—

Mr. SCHWARTZ. And I think anything that would have been asked we would not have thought about the consequences.

Senator LONG. I think—I cannot understand you, Mr. Schwartz.

Mr. SCHWARTZ. I say anything that would have been asked, I think I would have taken part in.

Senator LONG. You mean you would have committed any crime?

Mr. SCHWARTZ. No.

Senator LONG. You would have violated any constitutional right of any citizen if you had been directed to?

Mr. SCHWARTZ. No. No. I meant by that surveillance.

Senator LONG. Breaking and entering.

Mr. SCHWARTZ. I didn't regard it as such, sir.

Senator LONG. Well, what do you regard as breaking and entering then?

Mr. SCHWARTZ. Well, we were trying to obtain—trying to obtain the evidence of this racket association.

Senator LONG. I know, but even an overzealous desire on the part of an officer doesn't authorize him to violate the laws of the State or the constitutional rights and privileges of a citizen, does it?

Mr. SCHWARTZ. I was overzealous.

Senator LONG. Beg pardon?

Mr. SCHWARTZ. I was overzealous, sir.

Senator LONG. I agree. You do know that breaking and entering is a crime in the State of Pennsylvania, is it not?

Mr. SCHWARTZ. If you have willful intent; yes.

Senator LONG. You did not mean to enter? That is what that means.

Mr. SCHWARTZ. I had no profit motive.

Senator LONG. I am sure the law is that it does not have to have a profit motive.

Mr. SCHWARTZ. I am not acquainted with the law.

Senator LONG. I would respectfully suggest to you that you should acquaint yourself with the State law in a situation of that kind. * * *

Mr. McCARTHY. Mr. President, I do not want to single out Mr. Schwartz, whom I do not know personally, because there are other statements at the hearing besides his which give one pause. The point is that there seems to be a view that certain agents of government are above the law so long as their intentions are good.

Wiretapping, illegal entry to bug, and the use of other eavesdropping devices, raise questions not only about respect for statutes but also beyond this to constitutional rights and basic human rights.

The brevity of the language in the Bill of Rights is part of the greatness of these amendments. They are concise and simple enough so that the broad meaning can be understood by all. They are not so detailed and rigid as to exclude further interpretation and applications to new conditions. In this sense, the Bill of Rights places a responsibility on the courts of each generation, on each Congress, and upon the people to restudy the terms in the light of changing modes of living, producing and exchanging, of changing technology and changing levels of knowledge and education, and of vastly different opportunities for choice.

We can never take the Bill of Rights for granted, not so much because old interpretations become invalid but rather because new conditions require new applications and permit new insight.

Questions of freedom of speech, the right to assemble, or the right to privacy today are far more complex than they were in the early years of our Nation. They require study by Congress and frequently require new statutes. Certainly, the recent advances in electronics have presented us with new problems to solve and the need to further protect the right to privacy.

In considering these questions, it is important to remember that we are not merely dealing with procedural questions but with procedures which touch directly upon basic human and constitutional rights.

The Bill of Rights of the U.S. Constitution, both in its creation and in the history of the lives of citizens who have lived under it for more than 175 years, is a testament to the dignity of the individual. The first, the fourth, the fifth, and other amendments, represent a balance between the power of government—even good government—and the loneliness and isolation of the individual. They set forth areas of sanctuary for him, providing an opportunity for him to develop as a free person: to seek truth openly, to choose freely, and to retain personal integrity and privacy.

The first amendment with its guarantees of several freedoms and the fourth and fifth amendments with their protection against unreasonable speeches and seizures, for warrants only upon probably cause, their insistence upon due process of law, and their privilege against self-incrimination—all these are constitutional provisions to give civil support to fundamental rights based upon human nature. They require government to respect these areas in building its case against a suspect; they exist, of course, not in the interest of weakening action against the criminal but rather because there is no more appropriate way to protect the innocent from the unequal power of government and society.

We must be concerned about all activities in this area, including those of government agents, to make certain that we do not diminish these rights. Just as certainly, we must be ready to investigate and move positively when it is necessary to safeguard them.

Mr. HART. The Senator from Oregon always goes to the most difficult of all the areas of competing principles of societies such as ours, in the business of balancing our obligation to insure our survival and our security against our responsibility to insure that individual freedom is respected and protected and assured.

This is never an easy chore when a specific problem is presented. It oversimplifies it terribly to say, as some attempt to say, that our freedom is our security, but it comes close to saying what is the truth.

It is my good fortune to serve, under the chairmanship of the Senator from Missouri [Mr. LONG], on the subcommittee which has given, and will continue to give, much thought to the subject. His leadership is emerging and is increasingly acknowledged in this country. When it is joined by the Senator from Oregon [Mr. MORSE], I think that no matter how difficult the problem, we can have confidence that it can be solved prudently by Congress and by other public agencies.

That it will continue to be an increasingly difficult problem, one does not have to be a Ph.D. in science to understand. Today, photographs which can identify tiny objects on earth can be taken from many miles in the sky. The scientific advances which produced that ability have produced equally fantastic devices which can intrude next door or intrude across the street, and which may reach, although not yet, our unspoken thoughts, and record our every spoken word.

Surely, this kind of scientific advance should be matched by equally dramatic applications of political policies that will insure against the intrusion by such devices, given an opportunity to have that occur.

Mr. YOUNG of Ohio. Mr. President, very definitely I am convinced that wiretapping and the use of any electronic devices or the practice of bugging, so-called, is a procedure that is repulsive to all liberty loving people. I desire to associate myself with the statements made by the distinguished senior Senator from Oregon. I commend him on the outstanding statement he has made today on a subject of vital importance to all Americans. He has performed a real public service. It is my intention to speak out on this subject some time during the present session of the Senate, and I shall do so.

I do wish it to be known that I consider any practices pursued by officials of the Internal Revenue Service in invading the privacy of individuals or intruding by the use of electronic devices in conversations between a lawyer and his client who is accused of income tax violations to be nefarious. It is contemptible and intolerable conduct on the part of Government officials which should find no tolerance whatever in the United States. If the Internal Revenue Service and any of its officials have adhered to such practices, they should be stopped immediately, and advantages gained by use of wiretapping should not be permitted to prevail.

Also, in this connection, if it is true that FBI Director Hoover has authorized or tolerated the tapping of telephone calls or the installation of electronic devices and engaged in "bugging" of citizens' conversations, to me that seems a practice and procedure which very definitely should not be tolerated. As a former prosecuting attorney who fervently believed that punishment, like a shadow, should follow the commission of a crime, I likewise certainly support the Bill of Rights of our Constitution adopted on the demand of men who won the Revolutionary War. I would favor enactment of any legislation considered necessary to prevent law enforcement or other officials of our Government from engaging in "bugging" conversations of suspected criminals or engaging in wiretapping of any conversations between any persons whatever. We should outlaw all wiretapping, public and private, wherever and whenever it occurs. I would be opposed to any legislation permitting wiretapping even if such wiretapping were authorized by a U.S. district judge, except when proof is offered that the security of the Nation itself is at stake, and only then with the strictest safeguards.

Mr. YOUNG of North Dakota. Mr. President, I am shocked by the disclosure of the lack of cooperation of the various administrative agencies under investigation by the subcommittee headed by the Senator from Missouri [Mr. LONG].

I am even more shocked by the failure of the agencies to take disciplinary action against those agents who have violated Department regulations.

But most shocking of all is the failure of the Department of Justice and the attorneys general of the States to prosecute agents who have violated laws banning eavesdropping and wiretapping.

The Long subcommittee hearings are replete with admissions of IRS agents who have openly flouted State and Federal law.

In my judgment, Federal agents are not and should not be above the law. In my judgment, the only way to stop lawless law enforcement is to prosecute lawless law enforcement officers for law violations.

I ask unanimous consent to have printed in the RECORD the text of a leaflet entitled "If Government Becomes a Lawbreaker," published by the Committee To Preserve American Freedom.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

IF THE GOVERNMENT BECOMES A LAWBREAKER . . .: A STATEMENT ON THE GROWING THREATS TO PRIVACY IN THE UNITED STATES

"If the Government becomes a lawbreaker, it breeds contempt for law."

Those were the words of Mr. Justice Louis Brandeis, decrying the use of wiretapping in the first case of its kind—Olmstead v. United States—to come before the U.S. Supreme Court in 1928.

Justice Brandeis went on:

"It (the Government) invites every man to be a law unto himself; it invites anarchy. To declare that in the administration of the criminal law, the end justifies the means—to declare that the Government may commit crimes in order to secure the conviction of a private criminal—would bring terrible retribution."

In 1934 the Congress categorically prohibited wiretapping.

However, agencies of the Federal government almost immediately began interpreting the law to find exceptions to the ban.

More recently a sharp and alarming increase in the use of wiretap and other police state tactics by government agencies the raised new and unprecedented threats to individual freedom in America.

WIRETAPPING, SNOOPING AND HARASSMENT . . .

U.S. Senator Edward V. Long of Missouri, chairman of the Senate Judiciary Subcommittee on Administrative Practice and Procedure, has conducted intensive hearings on the invasion of privacy by government agencies.

His conclusion:

"Federal agents are embarked on a nationwide campaign of wiretapping, snooping and harassment of American citizens."

Life Magazine commented: "The government has been electronically spying on its citizens for years."

In his dissenting opinion in *Hoffa* v. *United States* (1966), Chief Justice Earl Warren noted that the chief government witness was released from prison in a deal that he help develop a case not on past happenings, but for the future.

Warren stated that the government informer "became the equivalent of a bugging device." He added: "This type of informer and the uses to which he was put in this case evidence a serious potential for undermining the integrity of the truth-finding process in the federal courts."

The evidence clearly demonstrates an alarming and fast-growing erosion of personal privacy and rights, particularly by agencies of government.

C.P.A.F.: ITS PURPOSE

The growing tendency, particularly among government agencies, to invade and destroy the privacy of individuals has led to the formation of the Committee to Preserve American Freedom (C.P.A.F.).

The purpose of C.P.A.F. is to combat this increasingly dangerous trend through a nationwide program of education and action. C.P.A.F. will focus public attention on improper invasions of privacy wherever and whenever they occur.

C.P.A.F. believes that the American public will not tolerate the use of police state tactics.' whether by government or any other agencies. Therefore, the first and greatest task of C.P.A.F. is to inform the public of the existence and growth of these practices and to turn the glaring spotlight of publicity on the offenders.

## Taps, Bugs & Spies

# Anything to Get Hoffa

**EDITOR'S NOTE: The following article by Fred J. Cook appeared in the February 20, 1967, issue of *The Nation*. Cook has written extensively on the government vendetta against Teamster President James R. Hoffa. He concludes in the article reprinted below that the circumstances discussed in the article are of concern to everyone. His thoughts on "a sanctified authority" are expressed in the article and it is presented here for the information of the readers of the *International Teamster*, with the permission of *The Nation*.**

**FRED J. COOK**

*Mr. Cook is the author of many important articles for* The Nation.

In an era when only power counts, the long jungle warfare between James R. Hoffa and the U.S. Department of Justice has gone into a new, stimulating, and sometimes hilarious phase. It might be called, considering the government's protestations of hurt innocence, the Case of the Wire-Tapping Gremlins; it involves, among other things, the spectacle of J. Edgar Hoover's chosen heir apparent, Cartha DeLoch, with his foot in his mouth; and most of this can be attributed to a verity of modern American ethics: $200,000 in one pot will always outweigh a steady gratuity of $200 a month.

When the U.S. Supreme Court last December upheld his 1964 Chattanooga conviction for jury tampering, Hoffa let it be known that $200,000 in reward money awaited the man who could prove that his telephone lines had been tapped and his hotel premises bugged during that very period in 1964 when he was trying to consult with his attorneys and defend himself against the government's jury-tampering charges.

This munificent offer lured into the open one Benjamin David (Bud) Nichols, of Heiskell, Tenn., an expert in electronic gadgetry, who deposes that for the past ten years, in return for that $200 monthly bounty, he has been tapping and bugging at the whim and direction of the Federal Bureau of Investigation. One of his chores, he says, was the bugging and phone tapping of rooms occupied by Hoffa's entourage and by the jury during the Chattanooga trial.

There is not much doubt about the motivation that led Bud Nichols to make these belated revelations; hence, there might be some natural skepticism about his testimony. But the new motion that Hoffa's attorneys filed with the Supreme Court at the end of January does not rest upon Bud Nichols' story alone. His account is bolstered by the sworn statements of *four public officers,* who aver from their own personal knowledge that Hoffa and his attorney of record, William E. Bufalino, were victims of widespread and persistent wire tapping.

This new evidence reinforces what was patent to all but the innocent and the credulous in the record of the Chattanooga trial. A bit of background here becomes necessary.

Hoffa's trial in Chattanooga was based upon the earlier, so-called "Test Fleet" trial in Nashville, Tenn., which had ended in a hung jury. Hardly was the first trial over when Hoffa and a number of co-defendants were indicted and brought to trial in Chattanooga on the charge of tampering with the Nashville jury.

The government's ace in the hole in the Chattanooga trial was Edward Grady Partin, an ex-convict and a Baton Rouge, La., Teamster boss. Partin had been a constant Hoffa hanger-on during the Nashville trial and had ended up as a kind of sergeant-at-arms at Hoffa's door. Yet all the time, it developed, he had been an informer for Robert F. Kennedy's Department of Justice.

Partin had been in jail in Louisiana on charges of embezzlement and theft of union records, first-degree manslaughter and kidnaping. According to an affidavit later supplied to the Hoffa defense by a cellmate, Partin had announced that he would get out of jail by turning in Hoffa. He didn't care a damn about Hoffa, he reportedly said; a man had to look out for himself. And so it transpired: bail was supplied; Partin was sprung; and at once enlisted in the ranks of justice as an undercover man.

The day after his release, Partin telephoned Hoffa and invited himself (as the government's own recordings of this and a subsequent conversation showed) to join Hoffa in Nashville. Partin went to this self-arranged rendezvous primed by government agents to look out for jury tampering. With this strong hint to guide him, he soon began turning up just the kind of stories his new employers wanted. Though government witnesses walked the thin line of perjury in denying that Partin was a paid informer (a violation of federal law), the government eventually was compelled to admit that more than $1,500 had been paid to Partin's wife in regular monthly installments. There was other evidence of a *quid pro quo.* Once Hoffa was convicted with Partin's help, the government thoughtfully overlooked indictments for embezzlement and manslaughter and kidnaping which have remained suspended.

All of this the U.S. Supreme Court, with only Chief Justice Earl Warren vigorously dissenting, upheld as perfectly proper conduct in its December decision rejecting Hoffa's appeal. In doing so, the court also over-

looked and condoned the fact that Hoffa and his lawyers and his witnesses had been subjected to constant surveillance by a squad of twenty-five FBI agents in a fleet of roving cars, directed from a radio command post, during the entire course of the Chattanooga trial. Patent on the record were indications that Hoffa's telephone lines and hotel suite must have been thoroughly tapped and bugged.

There was, for example, the Bernard Spindel incident. Spindel is a skilled wire tapper and electronics expert, and Hoffa, in the middle of the trial, had decided to call him to Chattanooga to counterspy electronically on the Department of Justice. The summons had been relayed to Spindel at his New York home by telephone, and when Spindel landed in Chattanooga, a small army of FBI agents was on hand to tail him from the airport to Hoffa's hotel headquarters. It was clear from the testimony of the government's own witnesses that they knew exactly who was coming and where and when to meet him—a most remarkable instance of forensic telepathy.

•

New light is now shed on such mysteries by the affidavits of Bud Nichols and four assorted public officers. According to Nichols, in an affidavit he signed for Hoffa's defense on January 11, he had been employed for ten years as a private snooper for the FBI, working out of the Knoxville office under the direction of FBI Agent John A. Parker. In summarizing his relationship with America's most sacrosanct agency, Nichols said:

I have been an informer for the FBI; I have tapped many telephone wires and performed many functions for the FBI; I have stolen for the FBI in conjunction with other agencies that required such service, the details of which have been incorporated in a statement given to Mr. Hoffa's attorneys. I feel that I have been a captive of the FBI. . . . I have made available to Mr. Hoffa's attorneys certain pertinent documents substantiating not only my qualifications in the electronics field but other evidence with respect to my association with the FBI and other agencies.

All this, if true, must come as a great shock to J. Edgar Hoover, who touched off a recent war of words by insisting his boys would never, never have practiced such black arts except for the explicit orders of Robert Kennedy. Ten years' service, of course, predates Kennedy's brief reign as Hoover's titular superior. Any pain that Hoover might feel by such revelations, however, must be mild compared to the anguish that will be Kennedy's if he ever reads the remainder of Nichols' affidavit.

According to Nichols, this is the way it happened:

About the middle of January, 1964, he was summoned by FBI Agent Parker for duty on the Hoffa case, and on January 16 or 17, Parker himself delivered two tape recorders and a batch of eavesdropping equipment to Nichols' home. Nichols was instructed to go to Chattanooga the next day and to call the FBI office there, using the code name of Major. He followed instructions and so met Walter Sheridan, Kennedy's special delegate in charge of the rackets squad entrusted with the task of nailing Hoffa. Sheridan, Nichols said, introduced him to another man with the words: "This is Major and he will work with you." Then, he said, Sheridan handed him a sketch and gave his new partner a set of keys.

Nichols and his newly designated aide departed about 9:30 or 10 P.M. for the Read House, a hotel in Chattanooga where the Hoffa trial jury was to be sequestered. They went to the tenth floor, and Nichols placed tiny radio transmitters in various rooms in accordance with the sketch given him by Sheridan. He also tapped all the phones. A recorder and a receiver were placed in a central room next to the elevator. Then Nichols walked through each room, counting in a soft voice to make sure the bugs were working, and picking up each telephone and counting softly into its mouthpiece. Satisfied that no spoken word could elude the sensitive electronic gadgetry, the two men went over to the Patten Hotel, where they similarly treated Rooms 906, 908, 912 and 914, all of which were to be occupied by Hoffa and his retinue.

Nichols' story is that he was kept on duty in Chattanooga throughout the trial, receiving an additional compensation of $842 from the federal government. On one occasion, he says, he received an emergency summons to meet Walter Sheridan near the Patten Hotel. The tape recorder on Hoffa's taps appeared to have gone haywire. Nichols says he found a jack was loose and shoved it back in. Sheridan, he adds, "picked up several tapes and told me to go to the car and that he would be out in a minute. He came out to the car with the tapes in an envelope. I know this, for he referred to them in his conversation as we were going down to the Read House and stated that he knew they were going to win this case because Hoffa and his 'legal beagles were going crazy.'"

After another brief stop at the Read House, Nichols says, Sheridan "came down with an identical type of package which contained tapes, and he indicated that the jury pretty well had made up their minds."

Such is the Bud Nichols story. Naturally, there has been the very devil to pay. One tactic has been to denigrate Nichols. He was sentenced to six months at hard labor while in the army in 1948; he had four forgery charges lodged against him by Columbus, Ga., police in 1949; and he was sentenced to four months in the workhouse in Knoxville on two forgery charges in 1951. He enlisted for a second hitch in the army in 1958 (this, he says, was at the behest of the FBI for whom he was doing undercover work), and was arrested as a deserter in February, 1959. On the whole, the government implies, here is an untrustworthy character—almost as untrustworthy as Edward Grady Partin.

Walter Sheridan is now an executive with the National Broadcasting Company. Enraged at the Nichols story, he told *The New York Times:* "I never met him [Nichols] in my life. I don't know of any wire tapping or bugging in the Hoffa case. As far as the statements made about me being involved in any bugging or wire tapping in this case—they're absolutely false."

•

FBI Agent Parker, the man who, Nichols says, gave him most of his orders during the years he lived underground with the FBI, seemed to have a different reaction. Asked if he knew Nichols, he groaned: "Oh, good Lord." And then shut up.

As for the Teamsters, they insist that they treated the Nichols tale with the greatest circumspection. Nichols was brought to the Washington headquarters of the Teamsters and grilled for a whole weekend by Teamster attorneys. "We checked every facet of his life and story before we would accept it," one Teamster spokesman says. Bernard Spindel was brought in to question Nichols

about the details of the electronic eavesdropping, and assured the Teamsters that Nichol's description of the rooms and telephone hookups in the Patten and Read House was accurate in every detail. In addition, Teamster representatives say: "We have documentary evidence of things he did for the FBI. We can't say what it is at this time, but it is good and it is solid."

Whatever private documentation the Teamsters may have about Bud Nichols and his activities, they have offered the court affidavits from three public officers who swear that they heard Walter Sheridan play back tapes of conversations that had taken place in Hoffa's suite in Chattanooga. Here again some essential background is necessary.

One of the stranger aspects of the jury-fixing tales spun by Edward Grady Partin involved a Huntington, W. Va. businessman named Nicholas Tweel. Partin's story was that on October 22, 1962, the very day of his arrival in Nashville to begin his spying on Hoffa, he had happened to meet Tweel in the lobby of the Andrew Jackson Hotel. He had never laid eyes on Tweel before, nor Tweel on him, but according to Partin they struck up such a fast and furious friendship that Tweel told him all about Hoffa's plans to fix the Nashville jury. Subsequently, Tweel and a business associate, Allen Dorfman, of Chicago, an insurance man who handled Teamster funds, were indicted with Hoffa on jury-fixing charges.

•

At the resulting 1964 Chattanooga trial at which Hoffa was convicted, Partin's account of the Tweel-Dorfman involvements in the alleged conspiracy received some rough handling. Tweel insisted he'd never known Hoffa, never met him, right up to the moment they were arraigned together on the jury-tampering indictment. Tweel's whole contact, it developed, had been with Dorfman, with whom he was planning a business venture. They had been scheduled to meet elsewhere, but Dorfman had been summoned to Nashville by Hoffa to bring some records that might be needed in the pending "Test Fleet" trial—and so Dorfman had asked Tweel to meet him there. Tweel was in Nashville for only one day and part of another; he discussed his business deal with Dorfman, then went back to Huntington, and never returned to Nashville. Even the jury that convicted Hoffa couldn't buy Partin's tale of Tweel's involvement, and both Dorfman and Tweel were acquitted.

But it was as a result of the Tweel tale told by Partin that three Huntington public officers became involved in the case and ultimately found themselves indicted. The key figure in this offshoot of the Hoffa case is Herman A. Frazier, now retired after twenty-four years' service with the Huntington Police Department. Frazier at one time had served as acting chief of the department, and in the fall of 1962 was Chief of Detectives. He had also been long active in the Fraternal Order of Police, a national organization with some 60,000 full-time police officers as members, and from 1961-65 was vice president of this organization. In addition to his official duties, he and two brother officers had organized the Huntington Research Bureau, a private agency concerned primarily with polygraph work, screening employees for private industry and national defense agencies.

On October 19, 1962, three days before Partin in Nashville was to encounter and implicate Tweel, Frazier received a visit from a mystery man who identified himself as Jack Wrather. He told Frazier that the trial was to start in Nashville the following Monday and said that Hoffa's forces needed a check on the panel from which the trial jury would be drawn. Frazier expressed some surprise that the Teamsters, with their resources, wouldn't already have gathered all the information they needed, but Wrather silenced his doubts by giving him two $100 bills and six $50. Frazier agreed to take off for Nashville, to register at the Noel Hotel, and to get in touch with Wrather who would be at the Andrew Jackson.

To help him, Frazier enlisted Police Capt. Alfred Nelson Paden, of the Huntington force, and Albert P. Cole, who at the time was personnel director of Huntington. Frazier later testified that he began to have some qualms about this whole mysterious business and that these qualms were intensified when an unknown man appeared at his hotel room and began instructing him about the procedure for checking on the jury panel. Frazier's two comrades were absent, and when Frazier expressed some doubts about whether they could fulfill their assignment, the man said, oh, it was very simple, he would show Frazier how it was done. Picking up Frazier's hotel room phone, he made a few calls to prospective jurors, pretending he was a journalist doing a story. Frazier began to dislike the look of things and said he wouldn't do anything until he had talked to Wrather. So he went to the Andrew Jackson Hotel and asked for Jack Wrather. And was told that no such man was there, or ever had been.

While at the Andrew Jackson, Frazier chanced to meet Nicholas Tweel, whom he had known since school days in Huntington. That night, he and his friends had dinner with Tweel, did the town a bit; and the next day they all went back to Huntington, never having heard from Jack Wrather again, never having done anything in Nashville. But behind them, on the record, of course, were those telephone calls that, according to Frazier, the mysterious visitor had made from their hotel rooms.

Now matters began to get sticky for Frazier, Paden and Cole. On February 1, 1963, two FBI agents called on Frazier. He was later subpoenaed to testify before a Nashville grand jury investigating the alleged jury fixing, and he was questioned many times by Walter Sheridan. Sheridan, he says, demanded that he take a lie-detector test. Frazier at first demurred, but later agreed. He was given a long and exhaustive lie-detector test by the FBI; and, as he never heard anything about it again, as the results were not subsequently used to challenge his veracity, it must be assumed that he passed with flying colors.

•

Despite this, Frazier, Paden and Cole were indicted for attempted jury fixing. They were tried twice. The first jury disagreed and the second, in a trial in early 1965, acquitted them.

During all the months that their fate hung in the balance, Frazier says in the affidavit he has now furnished the Teamsters, he and his companions were repeatedly questioned and pressured to get them to testify against Hoffa. "It would require many pages to tell all the harassment, pressure and embarrassment we suffered at the hands of some members of the United States Department of Justice," his affidavit says. He charges that much of the pressure came from Walter Sheridan, and he relates one incident in which, he says, Sheridan exposed himself.

"At one such interview before my indictment," Frazier's

affidavit reads, "Sheridan asked me several questions subject of which he could only have known by listening to my phone conversations. I told him he was tapping my phone and he would not deny nor admit it.

"Nelson Paden and I decided to lay a trap by phone to prove to Sheridan that we knew he was tapping our phones. We decided on a name few people have and that we would discuss that name when we called each other. We used the name 'Armentrout' and indicated that he was connected with our being in Nashville. Apparently, Sheridan couldn't contain himself and he asked me who Armentrout was and why we hadn't told him of Armentrout. I then accused him of tapping my phone. I told him that Armentrout didn't exist and that he had fallen into our trap. He did not deny the accusation."

Sheridan remained convinced that Tweel and Dorfman, acting as go-betweens for Hoffa in the jury-fixing plot, had been responsible for the presence of the three investigators in Nashville, and so, Frazier says, he kept trying to get what he called "the truth" from them. According to Frazier, Paden and Cole, Sheridan was finally driven into committing the indiscretion of playing his tapes. Frazier says that on one occasion Sheridan turned on a tape recorder for him, and—

Two men were talking. One was Hoffa's voice. Sheridan said it was Hoffa and that the other was an attorney. . . . Hoffa was asking this man who the hell Frazier, Paden and Cole were and who the hell brought them to Nashville in the first place. The other man said he didn't know who they were. . . .

Frazier says in his affidavit that Sheridan played another tape:

I could hear a noise like a phone ringing and a voice said, "Hello." Hoffa's voice said, "Bufalino, do you know who the hell Frazier, Paden and Cole are and how the hell they got involved in this case?" Bufalino said: "Jimmie, I really don't know. I do know Nick Tweel knows them."

•

Hoffa and Bufalino discussed the problem some more, and Hoffa decided to get an opinion from Z. T. (Tommy) Osborn, Jr., one of his attorneys in Nashville and a man who was to be indicted and convicted on jury-tampering charges. Sheridan, Frazier said, then played another sample of his tape library. - -
that began by a sound like a phone ringing. Then a receiver sound and a female voice saying three names. I don't remember the first two, but the third was Osborn. Hoffa's voice then said, "Hoffa—put Tommy on the phone." A man answered and Hoffa asked, "Tommy, do you know those men from Huntington, West Virginia?" Osborn said he had met them. Hoffa asked if Tweel and Dorfman knew them. Osborn said yes, he understod they did. Hoffa asked if Osborn thought we should be contacted for statements. Osborn said he saw no reason for us to be interviewed . . . then the conversation ended by Hoffa saying, "Our troubles are big enough now without taking on someone else's troubles." Osborn agreed.

Sheridan's purpose in playing the tapes, Frazier said, was to demonstrate to the three investigators that Hoffa wasn't going to help them—and so they had better play ball with him. On one occasion, with all three of the accused investigators present, he played a tape to emphasize this very point. The recording apparently had been made of the conversation of a group of men sitting around a table talking. "One had Hoffa's voice saying Tweel and Dorfman denied any connection with us and that they [Tweel and Dorfman] weren't going to involve themselves with us."

Police Captain Paden's affidavit adds more details about this last scene. He recalls that Hoffa said at one point that he knew nothing about Frazier, Paden and Cole "and we could all go to hell, or something similar." After giving this a chance to sink in, Sheridan, according to Paden, turned to them and said: "See, you don't mean a thing to these people. Your only chance is to change your story and involve Tweel and Dorfman."

Cole quotes Sheridan as telling them in addition: "These are the big boys—these are Hoffa and his attorneys, sitting there discusing you fellows. And you can see now that Tweel and Dorfman have abandoned you. You are getting nothing from them—the Hoffa organization—you boys are on your own. I'm the only person that can possibly help you."

•

Since Frazier, Paden and Cole still refused to play ball, they were indicted and forced to go through two trials to clear themselves. All three men say that Sheridan asked them not to disclose his tape playing, and Frazier says that he told Sheridan they wouldn't. However, Frazier adds, after the Supreme Court turned down Hoffa's appeal, he read that Hoffa "had only thirty-eight days to file an appeal or he was going to jail," and he decided he couldn't keep silent any longer. He telephoned Paden and Cole and told them what he had decided to do. "They both advised me to go ahead and they would back me all the way," Frazier says. The dovetailing affidavits from all three followed.

There is other confirming evidence. About the time that the Supreme Court was turning down Hoffa's appeal, wire tapping and bugging began to become a highly sensitive issue. Forced disclosures that these arts had been practiced on a wide scale led to the overturn of several convictions, most notable that of Fred M. Black, an associate of Bobby Baker, for income-tax evasion. The Internal Revenue Service, its prosecutions put in jeopardy by these disclosures, called for a study of all cases in which such eavesdropping might have been involved. The overturn of convictions and confirmation of the long-standing belief that no man can be sure of privacy in a world of snoopers began to give law enforcement a black eye, and J. Edgar Hoover, who does not take criticism gracefully, threw the blame on Kennedy. Kennedy expressed utter surprise.

Such was the situation when William Loeb, the wealthy and ultraconservative publisher of the Manchester *Union-Leader* in New Hampshire, had what he described as a most revealing conversation with Cartha DeLoch, Assistant Chief of the FBI and the man reportedly favored by Hoover to succeed him. In an affidavit later supplied to the Hoffa defense, Loeb said on December 20, 1966:

DeLoch stated to me that during his tenure Attorney General Robert F. Kennedy had a special unit of three individuals mainly responsible for wire tapping. He said that the unit was headed by Walter J. Sheridan. Special Assistant for Kennedy, and that the actual wire tapping was done by a man named Eddie Jones. DeLoch stated that Jones had been placed on the payroll of the Immigration and Naturalization Service through the efforts of the Attorney General. . . . He said the third member

of the group responsible for wire tapping was a Carmine Bellino. He further stated that Attorney General Kennedy had instructed the Internal Revenue Service to tap wires.

DeLoch, in discussing the James R. Hoffa case, suggested to me that I suggest to the Hoffa lawyers that their best move would be to ask the Department of Justice to conduct an investigation of wire tapping in connection with the various Hoffa trials. He said that if such an investigation were conducted he was sure that it would turn up extensive evidence of wire tapping in connection with the trials of Hoffa.

Loeb added that he telephoned DeLoch the next day and said he thought that what he had been told was so newsworthy he should use a story about it. DeLoch replied, Loeb's affidavit states, that "if I attempted to publicize this information he would deny that he ever talked to me about the matter."

So Loeb put the information in an affidavit for Hoffa —and things started to sizzle. FBI spokesmen pointed out that Loeb had obtained a $2.5 million loan from the Teamsters for his newspaper chain and that he had been offering a $100,000 reward for anyone who could turn up evidence of eavesdropping on Hoffa. DeLoch himself was not available for direct quotation, but FBI sources indicated that he had denied all.

This counterattack incensed Loeb. His loan from the Teamsters is paid up to date, he said (the Teamsters themselves insist that it has been an excellent business deal), and besides the issue was simple: who was telling the truth? To determine this, Loeb challenged DeLoch to take a lie-detector test, offering to take one himself. He pointed out that what was at stake was whether a man should unjustly go to jail; then he added, turning the knife.

"Of equal importance also is the fact that you are frequently mentioned as Hoover's successor as head of the FBI. It is therefore important that if you are to succeed Hoover it be determined right now whether you have told the truth in this situation."

•

While Washington was chuckling over this contretemps, the Teamsters were further documenting for the Supreme Court the extent of the espionage that, they claimed, had violated Hoffa's rights. In additional affidavits, William E. Bufalino, Hoffa's attorney of record, described his experiences with federal bugging and wire tapping.

On November 15, 1961, he and the late James E. Haggerty, Sr., of Detroit, the courtroom strategist for Hoffa, were in the San Juan Hotel in Orlando, Fla., preparing Hoffa's defense against charges that had been brought against him there. Bufalino states:

I was in Haggerty's room discussing the pending case with him when Haggerty reached for the telephone to make a call. He dropped a piece of paper on the floor and bent over to pick it up. He called my attention to a piece of black adhesive tape which was hanging from the underside of a shelf of the telephone table. The lower side of the shelf was approximately ten inches from the floor. We looked underneath the table and I observed an object two inches wide and an inch-and-a-half thick. It was taped to the underside of the shelf and appeared to be of black, plastic material.

Haggerty and Bufalino notified the Orlando Police Department of their find, and were told by Lieut. Bill Yohn that they had discovered "an electronic wireless transmitter." Orlando police thoughtfully turned the gadget over to the FBI for "investigation." Haggerty and Bufalino had an appointment to meet with FBI agents in Orlando, but the FBI canceled out. Hoffa subsequently charged that evidence used as a basis for the Orlando indictment had been illegally obtained through the wiretapping activities of Edward M. Jones, then an employee of the McClellan committee. Subpoenaed, Jones testified that he was a wire tapper, that he had tapped for the McClellan committee; but then, asked directly whether he had tapped Hoffa's wires, he refused to answer, taking refuge in the fact that the McClellan committee had invoked Senate Rule XXX, which conveniently provides that no Senate employee can be compelled to produce documents or reveal information without the consent of the Senate.

•

Against this background, William Bufalino's most recent experiences with wire tappers become fascinating. For many months, he and his wife had complained to the Detroit Bell Telephone Company that the phones in their Grosse Pointe Shores, Mich., home appeared to have been tapped; but, until the summer of 1965, they had no proof. Then, on June 10, 1965, Mrs. Bufalino dialed from her home phone, Tuxedo 1-6859, to a number in Kingston, Pa.—Area Code 717, Butler 7-2024. Minutes after the call had been completed, Bufalino charges in a suit he has brought against Detroit Bell, some unknown caller telephoned the Butler number, trying to find out who had made the long-distance call. Not getting any cooperation, the caller said he would find out in Detroit. Shortly afterward, Bufalino charges, his wife's phone rang and a caller, identifying himself only as "a telephone company employee," insisted that she identify herself and give her telephone number. When she refused and asked the caller to identify *himself,* he became abusive and threatened to cut off her telephone.

"If I really want the number, I'll make you report it out of order and I know I got the right line," the caller said.

Shortly afterward, Tuxedo 1-6859 did indeed go dead, and Bufalino raised a storm with Detroit Bell. Service was restored the following morning. About 10:15 A.M., June 11, 1965, while Bufalino was talking to his wife from his office, there came an interruption, and suddenly Bufalino found himself listening in on the conversation of two unknown men. Having a free phone handy, he switched on a dictaphone and recorded the conversation. The two chitchatting ghosts, who later identified themselves as Frank Kaminski and Robert Koss, both employees of Detroit Bell, were discussing the hard time Mrs. Bufalino had given them the day before:

KAMINSKI: You know I'm so mad I'm shaking, Bob. If I had her, honest to God, I'd kick her right in the teeth. How can you talk nice to people like that is what gets me. Huh?

KOSS: She thinks she's King of the Hill.

KAMINSKI: Ain't no way for a telephone man—how in hell can you identify if she—if she misconstrued it what I told her yesterday. I told her—I say if re—I really want that number, I'll make you report it out of order and I know I got the right line (*click*). Who's on here?

HOLOWICH: Holowich.

KAMINSKI: Holowich, I'll put you on hold. It'll probably be a couple of minutes, or give me a call in about five. It'll be better off then.

HOLOWICH: I'm up the pole now, Frank.

KAMINSKI: Well, you'll have to hang on now, Dick.

With Holowich waiting up the pole, Kaminski and Koss resumed their conversation about all the troubles the Bufalinos were giving them. At one point, Kaminski said he'd bet Bufalino was talking to "her" right now about them.

Koss: Can you put her line up and check?

KAMINSKI: Oh, that's easily done (*pause; click*). No. No. She ain't—she ain't there now. See? She reported this yesterday.

Koss: Yeah?

KAMINSKI: Yeah (*pause*). Well, when is he going to pick this up? (*Pause.*) Kinda exciting, isn't it there?

Here Bufalino came on the wire, got the two talkative telephone employes to identify themselves, and then notified them he would see them in court.

Subsequently, in pretrial depositions, Bufalino established that Detroit police had set up a wire-tap listening post in a second-floor apartment at 15414 East Mack Avenue. One of the policemen who monitored the taps finally acknowledged the part he had played. In a pretrial deposition on November 6, 1966, the policeman, Paul L. Quaglia, conceded that he knew Walter Sheridan and said he had worked on the wire-tap detail with Sgt. Walter DePugh, who left the Detroit force to join the Internal Revenue Service in November, 1963.

According to Quaglia's pretrial testimony, repeated in an affidavit he gave Hoffa's lawyers at the end of December, the East Mack Avenue listening post was equipped with four tape recorders and four sets of earphones. There was also, he said, "a pen register on the Bufalino wire tap" that traced out the numbers of phones being dialed. Quaglia said that throughout the fall of 1962 and part of 1963, he monitored the Bufalino wire taps. Detroit police, he said, had no interest in Bufalino, and it was his understanding the taps were being made for federal authorities. Many of the calls, he said, dealt with details of Hoffa's legal problems, and many of Bufalino's recorded conversations were with other defense attorneys.

Although Solicitor General Thurgood Marshall has submitted a formal memo to the Supreme Court, denying that government agents used bugs or wire taps before or during Hoffa's Chattanooga trial, it is not necessary to interpret the evidence detailed above as casting doubt on Mr. Marshall's word. More likely, he is only one of many Americans who have not yet grasped the extreme sophistication with which certain government agencies cut the corners of veracity.

Nor are the circumstances here set down of concern only to Hoffa and his colleagues. They involve the question of whether any man, even one as powerful as Hoffa, has a fighting chance to defend himself if, as the record seems to indicate, he must battle the paid and planted informer, the *agent provocateur,* the wire tapper eavesdropping on his most private conversations with his attorneys. The pioneers who founded this nation fled from oppressive systems in which a man accused by authority virtually stood condemned. Now, in this age of massed and overweening power, the rights, the dignity and the freedom of the individual are scorned by an immune and sanctified authority. That is the real issue that Hoffa has presented to the Supreme Court.

**Highest Gains**

# Bonanza Airlines Mechanics Ratify 29-Month Agreement

Teamsters employed as mechanics and related personnel at Bonanza Airlines recently ratified a new 29-month agreement providing them gains higher than those reached at United, TWA, and the other "Big Five" air carriers in settlements made by the Machinists in recent months.

Henry Breen, director of the Teamsters Union Airline Division, said the Bonanza contract guaranteed wage increases of up to 65 cents per hour, increased shift differentials of 11 cents for swing and 18 cents plus a paid meal period for the graveyard shift.

The total package, Breen said, amounted to an 18 per cent increase, bringing the top maintenance scale to a rate of $4.39 per hour.

Other gains in the contract included:

An additional holiday was added, bringing the total to 8 with 2½ and 3 times the rate of pay to an employee working on a holiday, plus a compensating day off.

The company agreed to pay for 100 per cent of the premiums on a group insurance plan for the employees and their dependents.

Vacations of 2 weeks after 1 year, 12 days after 3 years, 14 days after 5 years, and 15 days after 7 years were established. There also was a provision for sick leave accumulation of 90 days.

Employees possessing federal licenses were given a 5-cent hourly pay hike.

## Swearing In

**Shown during swearing-in ceremonies for the newly-elected slate of officers of Teamster Local 355 in Baltimore, Md., are (left to right): Joseph M. Townsley, secretary-treasurer of Teamster Joint Council 62, administering the oath; John Sullivan, president; Philip Barthel, recording secretary; Robert Robinson, secretary-treasurer; Joseph Marano, Robert Pumphrey, and Lovely Fickling, trustees; Anthony Pellegrini, vice president.**

JOHN B. McGINLEY, C.P.A. (1927-1955)
LEO F. McGINLEY, C.P.A.
WILLIAM P. ROCHE, C.P.A.
MEMBERS OF AMERICAN INSTITUTE
OF CERTIFIED PUBLIC ACCOUNTANTS

LINWOOD R. WATSON, C.P.A

McGINLEY & ROCHE

CERTIFIED PUBLIC ACCOUNTANTS

4000 ALBEMARLE STREET, N.W.
SUITE 503
WASHINGTON, D. C. 20016

February 8, 1967

International Brotherhood of Teamsters,
Chauffeurs, Warehousemen and Helpers of America
25 Louisiana Avenue, N. W.
Washington, D. C. 20001

Gentlemen:

We have examined the consolidated balance sheet of the

INTERNATIONAL BROTHERHOOD OF TEAMSTERS,
CHAUFFEURS, WAREHOUSEMEN AND HELPERS OF AMERICA
AND ITS SUBSIDIARY, TEAMSTERS' NATIONAL
HEADQUARTERS BUILDING CORPORATION

as of December 31, 1966, and the related statement of income and expense for the year then ended. Our examination was made in accordance with generally accepted auditing standards and accordingly included such tests of the accounting records and such other auditing procedures as we considered necessary in the circumstances.

In our opinion, the referred to consolidated balance sheet and statement of income and expense present fairly the financial condition of the

INTERNATIONAL BROTHERHOOD OF TEAMSTERS,
CHAUFFEURS, WAREHOUSEMEN AND HELPERS OF AMERICA

as of December 31, 1966 and the results of its operations for the year then ended and were prepared on a basis consistent with that of prior years.

Respectfully submitted,

McGINLEY AND ROCHE

McGinley & Roche
Certified Public Accountants.

# INTERNATIONAL BROTHERHOOD OF TEAMSTERS AND ITS SUBSIDIARY-TEAMSTERS' NATIONAL HEADQUARTERS BLDG. CORP.

## Consolidated Balance Sheet as of December 31, 1966

### ASSETS

| | | |
|---|---|---|
| **Cash** | | |
| On Deposit, Checking Accounts | $ 1,264,059.53 | |
| In Transit, Checking Accounts | 27,103.00 | |
| Office Funds | 750.00 | |
| On Deposit, Savings Accounts | 8,764,639.93 | |
| In Transit, Savings Accounts | 42,967.87 | |
| On Deposit, Time Deposits | 11,100,000.00 | $21,199,520.33 |
| **Accounts Receivable** | | |
| Advances—Affiliates and Allied Organizations | 886,286.15 | |
| Advances for Bookkeeping Machines | 42,710.50 | |
| Others | 102,816.51 | 1,031,813.16 |
| **Inventories—Cost or Market** | | |
| Local Union Supplies and Equipment | | 146,951.90 |
| **Investments** | | |
| Securities—Maturity Value | 27,487,517.01 | |
| Accrued Interest Thereon | 433,533.19 | 27,921,050.20 |
| **Deposits** | | |
| Local Union Supplies and Equipment | 46,261.97 | |
| Others | 1,125.00 | 47,386.97 |
| **Deferred Charges to Future Operations** | | |
| Prepaid Insurance | 16,045.12 | |
| Prepaid Organizing Expenses | 22,500.00 | |
| Prepaid Postage | 2,114.20 | |
| Prepaid Surety Bonds | 19,559.19 | |
| Prepaid Taxes | 4,860.84 | |
| Prepaid Building Operation Costs | 455.84 | |
| Prepaid Rent | 1,972.97 | |
| Cafeteria Stock Inventory, Lower—Cost or Market | 884.74 | 68,392.90 |
| **Fixed Assets** | | |
| Real Estate | 4,344,355.78 | |
| Furniture and Furnishings | 59,926.78 | |
| Office Equipment | 61,529.40 | |
| Automobiles | 15,628.93 | |
| Aircraft | 9,795.16 | |
| Display | 388.88 | 4,491,624.93 |
| **Total Assets** | | $54,906,740.39 |

### LIABILITIES, DEFERRED INCOME AND NET WORTH

| | | |
|---|---|---|
| **Accounts Payable** | | |
| Trade Creditors | $ 251,775.40 | |
| Escrow Funds | 5,299.01 | |
| The Teamster Affiliates Pension Fund | 631,644.76 | |
| Employees' Income Tax Withheld | 49,684.17 | |
| Judgment Payable | 75,094.75 | |
| Others | 183.23 | $ 1,013,681.32 |
| **Accruals** | | |
| Salaries and Expenses | 3,963.66 | |
| Taxes—Social Security | 5,066.12 | 9,029.78 |
| **Total Liabilities** | | 1,022,711.10 |
| **Deferred Income** | | 724,174.23 |
| **Net Worth** | | |
| Balance, January 1, 1966 | 49,701,099.22 | |
| Add: | | |
| Excess of Income over Expenses for the year ended December 31, 1966 | 3,458,755.84 | 53,159,855.06 |
| **Total Liabilities, Deferred Income and Net Worth** | | $54,906,740.39 |

This Balance Sheet is subject to a contingent liability of $150,000.00 for judgment rendered in Hatas vs. I. B. T., et al, court case, and a contingent liability of $232,159.69 for judgment rendered in Cream Top Creamery, Inc. vs. Teamsters' L. U. No. 783, et al, court case.

# INTERNATIONAL BROTHERHOOD OF TEAMSTERS
# AND ITS SUBSIDIARY-TEAMSTERS' NATIONAL HEADQUARTERS BLDG. CORP.

## Statement of Income and Expenses for the Year Ended December 31, 1966

| | | | |
|---|---|---|---|
| **Operating Income** | | | |
| Fees | | | |
| Per Capita | | $20,815,771.45 | |
| Initiations | | 1,040,467.50 | |
| Organizational | | 239.50 | |
| Back Tax | | 85,014.30 | $21,941,492.75 |
| Other Income | | | |
| Sale of Supplies | | 163,387.74 | |
| Refunds, Claims, Sales and Overpayments | | 310.15 | 163,697.89 |
| Total Operating Income | | | $22,105,190.64 |
| Deduct: | | | |
| **Operating Expenses** | | | |
| Donations to Subordinate Organizations | | 4,017,579.75 | |
| Organizing Campaign Expenses | | 2,451,493.30 | |
| Supplies Purchased for Resale | | 119,293.71 | |
| The Teamster Affiliates Pension Fund | | 4,854,848.24 | |
| Convention Expense | | 720,312.14 | |
| Magazine "International Teamster" | | 1,141,578.96 | |
| Legal Fees and Expenses | | 446,305.68 | |
| Retirement and Family Protection Plan | | 1,156,399.20 | |
| Judgments, Suits and Settlements | | 98,388.00 | |
| Appeals and Hearings | | 6,288.03 | |
| Officers', Organizers' and Auditors' Salaries | | 1,113,856.52 | |
| Officers', Organizers' and Auditors' Expenses | | 593,789.27 | |
| Staff Salaries | | 386,798.98 | |
| Staff Expenses | | 26,809.48 | |
| Printing and Stationery | | 21,013.90 | |
| Postage | | 21,432.68 | |
| Telephone and Telegraph | | 72,648.84 | |
| Express and Cartage | | 17,147.07 | |
| Expense of Bonding | | 350.00 | |
| Office Rent | | 16,800.00 | |
| Office Supplies and Expenses | | 52,824.79 | |
| Office Furniture and Equipment Expense | | 3,561.25 | |
| Auditing Expenses | | 4,500.00 | |
| Affiliates' Auditing Expense | | 261.88 | |
| Bonds and Insurance | | 26,757.55 | |
| Building Occupancy Expense | | | |
| Custody | | 13,023.01 | |
| Maintenance, Supplies and Service | | 180,977.40 | |
| Supervision and General Expense | | 20,909.04 | |
| Cafeteria and Kitchen | | 77,079.70 | |
| Depreciation, Building | | 100,431.38 | |
| Insurance, Building | | 7,074.27 | |
| Taxes, Real Estate | | 69,711.74 | |
| General Executive Board Meeting Expense | | 23,879.44 | |
| General Executive Board Authorizations | | 10,172.19 | |
| Donations to Public Causes | | 18,250.00 | |
| Donations to Allied Organizations | | 30,000.00 | |
| San Francisco Office | | 6,395.64 | |
| Portland Office | | 1,242.14 | |
| Dallas Office | | 3,720.00 | |
| Seattle Office | | 12,000.00 | |
| New York Office | | 10,000.00 | |
| Public Relations | | 148,263.35 | |
| Taxes, Personal Property and Others | | 12,048.45 | |
| Taxes, Social Security | | 95,165.55 | |
| Departmental and Divisional Expenses | | 1,606,951.19 | |
| Auto Repair and Maintenance | | 7,687.69 | |
| Aircraft Repair and Maintenance | | 102,416.67 | |
| Depreciation and Amortization | | (17,562.77) | |
| Health and Welfare | | 23,854.06 | |
| Participation in Labor Movement Causes | | 1,312.50 | $19,936,041.86 |
| Net Income from Operations | | | $ 2,169,148.78 |
| Add: | | | |
| **Financial Income** | | | |
| Income | | | |
| Interest on Investments | $1,901,191.09 | | |
| Discount Income | 79,281.77 | 1,980,472.86 | |
| Expenses | | | |
| Conversion Cost—U. S. Obligations | 784,468.75 | | |
| Service Charges | 41,371.14 | | |
| Investment Expenses | 22.05 | | |
| Bond Premium Amortization | 193.25 | 826,055.19 | 1,154,417.67 |
| Total Operational and Financial Income | | | $ 3,323,566.45 |
| Add: | | | |
| **Other Income** | | | |
| Gain on Foreign Exchange | | 133,834.52 | |
| Defunct Local Union Funds | | 32.33 | |
| Gain on Sale of Fixed Assets | | 858.79 | |
| Other | | 463.75 | 135,189.39 |
| Excess of Income over Expenses for the year ended December 31, 1966 | | | $ 3,458,755.84 |

# LAUGH LOAD

## Backward Looker

A pan handler approached a pedestrian and said.

"Give me a dime to buy a cup of coffee."

Pedestrian: "But I just gave you a dime 10 minutes ago."

Panhandler: "Stop living in the past."

●

## Perfect Specimen

Joe: Milk is a great bone builder, so I drink lots of it.

Moe: Yeah, and you've got the head to prove it.

●

## All Tied Up

Herman Levin, producer of *My Fair Lady,* tells of the two women who sat in the orchestra, an empty seat between them. At the intermission one said, "I waited eight months for my ticket."

"So did I," said the other.

"What a shame—this empty seat," said the first.

"Oh, that's mine, too," replied the other. "It was my husband's, only he died."

"But couldn't you have brought a friend?"

"No," she said, shaking her head. "They're all at the funeral."

●

## Great Pals

Truck Dispatcher: "I understand you did quite a bit of fishing on your vacation. Did you fish with flies?"

Driver Superintendent: "Man, we fished, ate, slept, danced, boated, camped, drank and swam with them."

●

## Small Contribution

"And upon what income do you propose to support my daughter?"

"Five thousand a year."

"Oh, I see. Then with her private income of $5,000 a . . ."

"I've counted that in."

## Worth a Try

The surly old miser felt sick, and in a panic sent for the local clergyman, although he had never done anything to help the parish.

"If I leave $10,000 to the church," he croaked, "will my salvation be assured?"

"I wouldn't be certain," replied the clergyman, "but it's well worth trying."

●

## Safe

The boss returned in a good humor from lunch and called the whole staff in to listen to a couple of jokes he'd picked up. Everybody but one girl laughed uproariously.

"What's the matter?" grumbled the boss. "Haven't you got any sense of humor?"

"I don't have to laugh," said the girl. "I'm leaving Friday anyhow."

●

## Something Needed

"Why do you always type your employer's speeches from dictation instead of using shorthand?"

"Because," answered the typist of a long-winded member of congress, "I need the noise of the machine to keep me awake."

●

## Bright Side

"I know I'm not much to look at," admitted the suitor.

"Oh, well," philosophized his bride-to-be, "you'll be at the office most of the time."

●

## Sure Thing

Shop Foreman: "I'm looking for a gift for my girl. I want something that will make her face light up; something that will make her eyes sparkle; something that will rekindle the fire of love."

Jeweler: "Well, if you're trying to burn her up, don't give her anything."

●

## Stick to Business

Doctor: "You have acute appendicitis."

Freight Claim Steno: "Listen, Doc, I came here to be examined, not admired."

## Modest Type

At a dinner party one evening, a lady was introduced to a tall, rangy Texan.

"Oh, are you one of those rich Texans I've heard so much about?" she gushed.

"Wal, ah guess so," answered the other.

"Tell me, are you an oil man?"

"Nope."

"Cattle?"

"No, ma'am."

"How about real estate?"

"Wal, I reckon. I have about 36 acres."

"That doesn't sound like much," the lady commented dubiously.

"No, ma'am, mebbe not," the Texan said slowly, "but my 36 acres are called downtown Dallas."

●

## Close Call

Indignant Woman: "I thought this was supposed to be a respectable hotel!"

Room Clerk: "Why it is, madam. It most certainly is. Is there something wrong?"

Indignant Female: "Well, as I was waiting for the elevator I saw one of those men from the trucking convention chasing a girl down the hall."

Room Clerk: "Did he catch her?"

Indignant Woman: "No."

Room Clerk: "Then the hotel remains respectable."

●

## Power of Advertising

The minister asked for anyone who knew a truly perfect person to stand up. After a long pause, a meek-looking fellow in the back arose. "Do you really know a perfect person?" the minister queried.

"Yes, sir, I do," answered the little man.

"Won't you please tell the congregation who this rare perfect person is?" pursued the minister.

"Yes, sir. It was my wife's first husband."

●

## Take My Advice

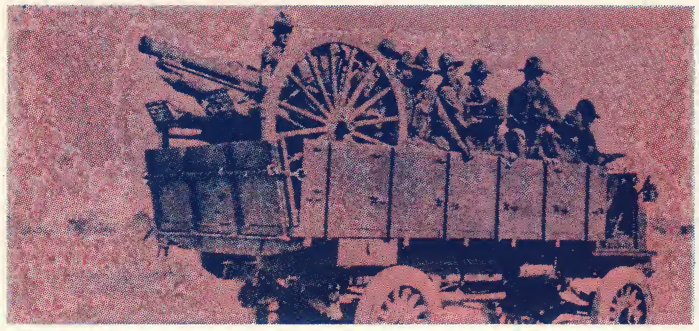
Having bolstered himself with a few stiff shots of bourbon before going to the dentist, the Truck Mechanic sank into a chair in the reception room. Beside him sat a fussy old maid.

After a moment, she looked at him scornfully and said, "Whiskey is an abomination. It nauseates me."

"Well, Ma'am, I'll tell you, you may have to do what a friend of mine did—quit the stuff."

# FIFTY YEARS AGO
## *in Our Magazine*

**Vol. XIV** ***(From the March, 1917, issue of the TEAMSTER)*** **Number 3**



## U.S. Prepares For War!

*Relations between the U.S. and Germany have become more strained with the interception of a note sent by German Foreign Secretary Zimmerman on February 28 to the German Minister in Mexico suggesting Mexico be asked to enter the war to recover the U.S. southwest. The U.S. began to prepare in earnest for what many now believed to be the inevitable entry of the U.S. into the war in Europe, as the two pictures above testify. In the top photo a motor truck transports a gun and crew during maneuvers at Fort Bliss, Texas. Other photo above shows members of the Ohio National Guard preparing to send a military observation balloon aloft. Bottom photo is the real thing as tank battle erupts in Meuse-Argonne area of France.*

***An Editorial***

## Prepare To Protect Your Unions

With the clouds of war hanging over us, with each day bringing us nearer to a conflict with a certain European nation, with high prices surrounding us on every side, is it not safe to say that our people and our country are today standing in a very delicate position. What the future will bring to our people no one knows.

It seems at this time to be almost a certainty that we will be drawn into the war before many more weeks pass over our heads. No one except the man who is at the head of our nation could have kept us out of war up to the present time and done so with dignity, but, like everything else, all hopes of our continuing in a state of peace seems to be passing away.

There is no class in the world that this conflict means more to than to the working people. First, because the working people are the ones who are asked to give up their life-blood. The thousands and hundreds of thousands of men required to defend the nation will come mainly from the working classes and the trades unions, and the work of the trades unions, should the war continue any length of time, will be dangerously interfered with.

We have some people who are still optimistic enough to think that a declaration of war against a foreign power will mean nothing very serious, but this is absolute foolishness. We will be led on step by step until finally we will be requested to land an army, fully equipped on European soil. The make-up of that army will be taken mostly from the working men of our country; thousands of men will be drafted from the trades unions.

From the very first or beginning of the war men will have to be drafted. The history of the war is this: That every trade union in Europe has been practically demoralized as a result of the war, with the exception of the trades unions in England, and even they are fighting a daily struggle for existence and recognition and have had to surrender to the government most of the rules governing their unions.

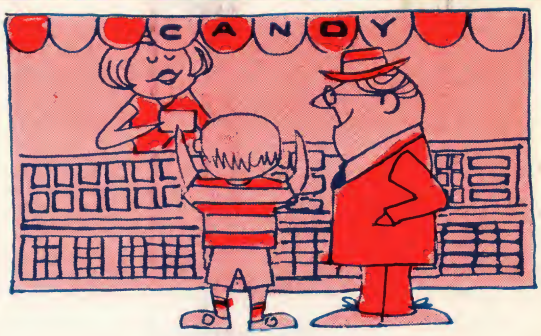
In passing let me say that perhaps it was absolutely necessary for the government of Great Britain to insist on the trades unions surrendering their rules temporarily, but only in England does any semblance of a union continue to exist. Whether or not the trades unions of America will be able to outlive the shock is another thing. Unions, however, must be prepared to fill up the ranks just as quickly as our membership is taken away, and we will be seriously interfered with.

This article is written so that you may have some idea of what might happen and so that you may prepare to protect your unions. If the things I mention above do not happen, if we still continue at peace with the world, and can do so honorably, all is well, but should the worst come upon us, as it appears now at this writing, then let us be prepared to meet a life and death struggle for the maintenance of our organizations.

# TO THE PUBLIC AND CONSUMERS:


VENDING MACHINES


SUPERMARKETS




NEIGHBORHOOD MOVIES

## ARE YOU BUYING CANDY FROM AN UNFAIR MANUFACTURER AT ONE OF THESE PLACES?


Please don't buy from this store any candy manufactured or distributed by Hollywood Brands, Inc. or its Hollywood Candy Company Division. Some of the brands of candy manufactured or distributed by this company are.

**Big Pay—Big Time—Butter-Nut—Hollywood—Milk Shake —Pay Day—Polar—Snow King—Teddy Bear—X-Tafy Nut— Zero—Also: Combination specials—Sunday and Tuesday.**

### HOLLYWOOD BRANDS, INC. IS UNFAIR. HERE IS WHY:

On March 16, 1966 the National Labor Relations Board conducted a secret ballot election among the employees of Hollywood Brands, Inc. at its Centralia, Illinois plant. These employees voted 278 to 193 to have Teamsters Local 50 represent them as their collective bargaining representative. The National Labor Relations Board then certified Teamsters Local 50 as the employees' exclusive collective bargaining representative. In spite of these facts, and in violation of the National Labor Relations Act, this company refuses even to meet with Teamsters Local 50 to bargain with them for a contract containing decent wages, hours and working conditions for these employees. Here is what the National Labor Relations Act says about an employer like this:

> "It shall be an *unfair labor* practice for an employer to refuse to bargain collectively with the representatives of his employees."

On December 8, 1966 an *NLRB* Trial Examiner issued his Decision, finding that Hollywood Brands, Inc. is *guilty* of violating the above quoted section of the National Labor Relations Act by its refusal to bargain with Teamsters Local 50.

In the meantime, Hollywood Brands, Inc. continues to work its employees under substandard wages, hours and working conditions.

We are not asking the employees of this store, or other personnel doing business with this store, to refuse to sell, pickup, display, deliver or transport goods or perform any service connected with the products of this company. We are appealing to you, the public and consumer, to show your disapproval of this company violating the law and to help maintain the American work standards established by our organization by refusing to purchase any candy manufactured or distributed by **HOLLYWOOD BRANDS, INC.,** or its Hollywood Candy Company Division, until it negotiates a contract with this union covering its employees at its Centralia plant. Morally and legally we are justified in asking for your support and hope you will extend it to us by buying candy that is produced and distributed by companies that employ union labor.